

Klamath Falls City Schools
1336 Avalon Street
Klamath, OR 97603
(541) 883-4700

March 6, 2008

Letter of Appeal
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

CC Docket No 02-6

Request For Review of Universal Service Administrative Company Administrator's Decision on an Appeal letter dated January 25, 2008, re Form 471 Application Number 575579 (Funding Request Number 1591691)

Authorized person who can best discuss this Appeal with you

Richard Larson
eRate Consulting Services, LLC
141 New Road, Suite 21
Parsippany, NJ 07054

Phone: (888) 249-1661 ext 323
Fax: (866) 534-1584
Email: rlarson@erateconsulting.com
(preferred mode of contact)

Application Information

<u>Entity</u>	Klamath Falls City Schools
<u>Billed Entity Number</u>	145061
<u>Funding Year</u>	FY10 (2007-08)

<u>Form 471 Application Number</u>	575579 ¹
<u>Funding Request Number</u>	1591691
<u>Service Provider</u>	Oregon Telecom, Inc.
<u>SPIN</u>	143024737
<u>Funding Commitment Requested</u>	\$77,964.00

<u>Document To Be Reviewed</u>	Administrator's Decision on Appeal Letter dated January 25, 2008, re Form 471 Application Number 575579 ²
<u>Decision To Be Reviewed</u>	Denied

¹ FCC Form 471 # 575579 for funding year 7/1/2007 – 6/30/2008, posted and certified on 2/6/2007 by Klamath Falls City Schools.

² Letter from Universal Service Administrative Company, Schools and Libraries Division, to Richard Larson, eRate Consulting Services LLC, dated January 25, 2008 (Administrator's Decision on Appeal – Funding Year 2007-08).

Appeal:

Klamath Falls City Schools (KFCS) respectfully requests that the Federal Communications Commission (FCC or Commission) reverse the Universal Service Administrative Company (USAC) Administrator's decision to deny funding to Klamath Falls City Schools (KFCS) for FRN 1591691 in Form 471 # 575579, and instruct USAC:

- To accept as the establishing Form 470 for FRN 1591691 Form 470 # 173950000580886, and
- To complete the review of FRN 1591691 and award funding based on the merits of such review.

Applicant's Contact Unfamiliar with E-rate Process:

The contact person at KFCS, Scott Mahaffey, is Director of Technology and is responsible full-time for the technology needs of the ten facilities at KFCS. However, Mr. Mahaffey is new to the E-rate process, and had not previously filed a Form 470; the FY9 Form 470s for KFCS had been filed by his predecessor,³ Paul Peterson.

In January of 2007, Mr. Mahaffey, misunderstanding the complex, multi-year E-rate process, believed that he could not file a FY10 Form 470 for the services provided by Oregon Telecom, Inc., because he had not yet received approval from SLD for those services for FY9. The FY9 funding request for telecommunication services from Oregon Telecom, Inc. was in Form 471 # 536242, FRN 1484469. The FCDL for this and other FRNs in 471 # 536242 was not issued until January 18, 2007⁴, eleven months after this application was filed by KFCS. Note that the FCDL was sent USPS first class, per SLD practice, so knowledge of the FCDL was not received at KFCS until roughly a week after the issuance date.

SLD Help Desk Provided Incorrect Information and Instructions:

Mr. Mahaffey's misunderstanding and confusion over the complex E-rate system (and the tardiness of the SLD FY9 PIA review process) were compounded by information and instructions given him by two agents of SLD at the Help Desk. The Help Desk agents not only confirmed Mr. Mahaffey's misinterpretation of the E-rate rules, they gave him clear and misleading instructions on how to proceed with preparing and filing the funding requests for FY11.

SLD Case # 21-520737: On January 17, 2007, Help Desk agent Devin advised Mr. Mahaffey to reference the FY9 Form 470 on his FY10 funding request; that a new 470 was only necessary if KFCS was requesting funding for a new service or if an old service contract was expiring. Since the telecommunication services from Oregon Telecom were not new, but were the same as those in FY9, and were on a month-to-month basis (i.e.: there was no service contract), Mr. Mahaffey concluded that no FY11 Form 470 was required.

³ FCC Form 470 # 173950000580886, funding year 7/1/2006 – 6/30/2007, posted and certified on 1/18/2006 by Klamath Falls City Schools. This FY9 Form 470 was prepared by the contact person, Paul Peterson, as were the other five FY9 Form 470s submitted by KFCS.

⁴ FCC Form 471 # 536242 for funding year 7/1/2007 – 6/30/2008, posted and certified on 2/16/2006 by Klamath Falls City Schools. *See FRN 1484469, FCDL Date: 01/18/2007, p. 4.*

SLD Case # 21-521554: On January 18 Mr. Mahaffey contacted the SLD Help Desk for more specific instructions on preparing his funding requests. Help Desk agent Natasha instructed him to reference the FY9 Form 470 for the telecommunication services from Oregon Telecom since the FY9 FCDL for those same services had not been received. She specifically instructed him re Block 5 for this FRN:

- Line 10: enter the comparable FRN from FY9 (FRN 1484469), and
- Line 12: enter the FY9 Form 470 # 173950000580886.

There are two possible conclusions regarding the above SLD Cases:

1. The information and instructions provided by two different Help Desk agents on two different days was correct, and therefore the PIA reviewer was in error in denying this FRN. If this is the case, KFCS respectfully requests that the Commission reverse the USAC Administrator's decision. However, KFCS concedes that it is unlikely that the Help Desk agents were correct based upon the documents cited in the Explanation section of the Administrator's Decision on Appeal Letter.
2. The information and instructions provided by the Help Desk agents was incorrect.

If this latter conclusion is true, it emphasizes the complexity of the E-rate system, and highlights certain questions:

- Should a novice applicant, only able to devote a very limited portion of his time to E-rate, be held to a higher standard of understanding of the E-rate process than SLD Help Desk agents who benefit from the SLD training program and whose full-time duties are to comprehend the E-rate process and dispense advice and instructions to applicants in need of Help?
- Should the KFCS be penalized because its employee's knowledge of an obscure part of a thoroughly complex system was no better than the trained agents of SLD?

Since the best understanding of the E-rate system available to KFCS in January 2007 (i.e.: a combination of the trained and knowledgeable Help Desk and the limited know-how of the novice applicant) led to an erroneous, deniable funding application, we respectfully contend that the applicant KFCS should not be penalized for this failure of SLD and the E-rate system.

It is further important to note that FRN 1591691 continued service with the only economically viable provider of telecommunication services in the Klamath Falls area, Oregon Telecom, and that there was no intent on the part of Mr. Mahaffey or anyone at KFCS to defraud or abuse the E-rate system. Indeed, Mr. Mahaffey, to the best of his knowledge (and to the best knowledge of the SLD Help Desk) was following the process correctly in this unusual set of circumstances.

We also note that, in a community where nearly 55% of the students qualify for free or reduced lunches,⁵ loss of the E-rate discount in this FRN would inflict a significant economic hardship.

FCC Rulings:

We believe these issues have already been addressed by the FCC in the "*Bishop Perry*", "*Alpaugh Unified*", and "*Aberdeen School District*" decisions.

⁵ Form 471 # 575579; "Block 4" information on p.3-4 lists NSLP Students totaling 2,162 out of a total Student Count of 3,938.

- In "*Bishop Perry*", the FCC recognized the vulnerability to error of applicants with demanding, full-time duties outside of the E-rate process:

"We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to positions dedicated to pursuing federal grants, especially in small school districts."⁶

This observation, while applied to errors of a different nature in *Bishop Perry*, is relevant to the applicant's contribution to the error in FRN 1591691.

- The FCC recognized in "*Alpaugh Unified*"⁷ that "a staffing problem" could lead to an error in the E-rate application process that need not cause "the complete rejection of these applications." In the case of KFCS's application, the lack of E-rate knowledge on the part of the KFCS staff member was greatly exacerbated by the complexity of a process that perplexed even the trained agents of SLD.

The "staffing problem" that victimized KFCS existed not only at the District itself, but at SLD where these obscure and convoluted procedures were designed, procedures that other SLD staff members could not properly understand or interpret. An applicant in the E-rate process, especially one with limited resources, must be able to rely on the SLD Help Desk to augment their effort to obtain E-rate discounts, especially in light of the recognized complexity of this process. In effect, the SLD Help Desk becomes an extension of the applicant's own staff, an extension the applicant must rely on to successfully and properly obtain the benefits of the E-rate system.

Failure of SLD and its staff to adequately comprehend and explain its own process must not lead to penalization of the applicant.

- As to the ultimate impact of the error committed by Mr. Mahaffey, in "*Aberdeen School District*" the FCC states:

"We find that Petitioners' errors related to the competitive bidding process do not warrant a complete rejection of their applications. We have examined the facts of each of these appeals and found that a waiver is warranted based on the circumstances presented and based on the facts that there is no evidence of waste, fraud or abuse. The goal of the competitive bidding process is to ensure that funding is not wasted because an applicant agrees to pay a higher price than is otherwise commercially available. We find no indication in the record that, as a result of these errors, applicants benefited from their mistakes or that any service provider was harmed. Specifically, there is no evidence in the record that other bids were not considered because these applicants did not fully comply with our competitive bidding rules. We find that the policy underlying these rules, therefore, was not compromised due to Petitioners' errors."⁸

As previously stated, Oregon Telecom was the only economically viable provider of telecommunication services in the Klamath Falls area, so no benefit accrued to

⁶ "*Bishop Perry Middle School, New Orleans, LA, et al.*", File No. SLD-487170, *et al.*, CC Docket No. 02-6, order released May 19, 2006., paragraph 14.

⁷ "*Alpaugh Unified School District, Alpaugh, CA, et al.*", File Nos. SLD-523576, *et al.*, CC Docket No. 02-6, order released March 28, 2007; p. 3.

⁸ "*Aberdeen School District, Aberdeen, WA, et al.*", File No. SLD-297249, *et al.*, CC Docket No. 02-6, order released May 8, 2007; p. 6-7.

KFCS as the result of Mr. Mahaffey's misunderstanding or from the erroneous information and instructions provided by the SLD Help Desk agents. No extra benefit was realized by the service provider, Oregon Telecom, and no other service provider was harmed.

In summary:

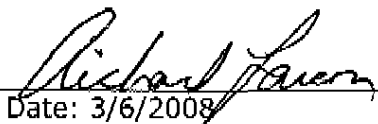
- An error was committed by a staff member of KFCS acting on the best available understanding of the E-rate process – understanding on both the applicant's part and on the part of the SLD agents upon whom the applicant placed his reliance.
- This error, while appearing to violate a core program requirement, in fact led to no benefit to either the applicant or the service provider, nor led to harm to other service providers.
- There is no evidence of waste, fraud or abuse.
- Denial of this FRN would inflict a significant economic hardship on KFCS and would not serve the public interest.

Conclusion:

Accordingly, Klamath Falls City Schools respectfully requests that the Commission reverse the USAC Administrator's decision to deny funding to Klamath Falls City Schools for FRN 1591691 in Form 471 # 575579, and instruct USAC:

- To accept as the establishing Form 470 for FRN 1591691 Form 470 # 173950000580886, and
- To complete the review of FRN 1591691 and award funding based on the merits of such review.

Authorized signature for this Appeal⁹



Date: 3/6/2008

Richard Larson
eRate Consulting Services, LLC
141 New Road, Suite 2I
Parsippany, NJ 07054

Phone: (888) 249-1661 ext 323
Fax: (866) 534-1584
Email: rlarson@erateconsulting.com

⁹ "Letter of Agency for Funding Years 11- 06" from Patricia Baldini, Business Manager, Klamath Falls City Schools, authorizing employees of eRate Consulting Services, LLC, to perform e-rate services on behalf of KFCS.

KLAMATH FALLS CITY SCHOOLS
BEN 145061
471 # 575579, FRN 1591691
Letter of Appeal
Federal Communications Commission
March 6, 2008

NOTE 1,5 - FY10_471_575579_app

FCC Form 471

Do not write in this area.

Approval by OMB
3060-0806**Schools and Libraries Universal Service
Description of Services Ordered and Certification Form 471****Estimated Average Burden Hours per Response: 4 hours**

This form asks schools and libraries to list the eligible telecommunications-related services they have ordered and estimate the annual charges for them so that the Fund Administrator can set aside sufficient support to reimburse providers for services.

Please read instructions before beginning this application. (You can also file online at www.sl.universalservice.org.)
The instructions include information on the deadlines for filing this application.

Applicant's Form Identifier(Create your own code to identify THIS form 471)
471-Y10**Form 471 Application#**

(To be assigned by administrator)

575579

Block 1: Billed Entity Information (The "Billed Entity" is the entity paying the bills for the service listed on this form.)**1 a** Name of Billed Entity
KLAMATH FALLS CITY SCHOOLS**2 a** Funding Year: July 1, 2007 Through June 30: 2008
Billed Entity Number: 145061**4 a** Street Address,
P.O. Box,
or Routing Number
1440 AVALONCity
KLAMATH FALLSState
OR

Zip Code 97603

5 a Type of Application
☐ Individual School (individual public or non-public school)
☒ School District (LEA; public or non-public [e.g. diocesan] local district representing multiple schools)
☐ Library (including library system, library outlet/branch or library consortium as defined under LSTA)
☐ Consortium ☐ Check here if any members of this consortium are ineligible or non-governmental entities**6** Contact Person's Name
Scott MahaffeyFirst, if the Contact Person's Street Address is the same as in Item 4, check this box. ☐ If not, please complete the entries for the Street Address below.**b** Street Address,
P.O. Box,
or Routing Number
1440 AVALONCity
KLAMATH FALLSState
OR

Zip Code 97603

Page 1 of 7



FCC Form 471 - November 2004

Entity Number 145061

Contact Person Scott Mahaffey

Applicant's Form Identifier 471-Y10

Phone Number 541-883-4756

This information will facilitate the processing of your applications. Please complete all rows that apply to services for which you are requesting discounts. Complete this information on the FIRST Form 471 you file, to encompass this and all other Forms 471 you will file for this funding year. You need not complete this information on subsequent Forms 471. Provide your best estimates for the services ordered across ALL of your Forms 471.

Schools/school districts complete Item 7. Libraries complete Item 8. Consortia complete Item 7 and/or Item 8.

Block 2: Impact of Services Ordered on Schools

IF THIS APPLICATION INCLUDES SCHOOLS...		BEFORE ORDER	AFTER ORDER
7a	Number of students to be served		3929
b	Telephone service: Number of classrooms with phone service	162	162
d	Direct broadband services: Number of buildings served at the following speeds:		
	Less than 10 mbps	0	0
	Between 10 mbps and 200 mbps	0	0
	Greater than 200 mbps	9	9
e	Direct connections to the Internet: Number of drops	2500	2500
f	Number of classrooms with Internet access	440	440
g	Number of computers or other devices with Internet access	1200	1200

Block 3: Impact of Services Ordered on Libraries

NOT APPLICABLE AS THIS APPLICATION IS FOR DISTRICT

Worksheet A No: 902826

Student Count: 3938

Weighted Product (Sum. Column 8): 2966.7

Shared Discount: 75%

1. School Name: FAIRVIEW ELEMENTARY SCHOOL

2. Entity Number: 114335 **NCES:** 41 07080 00482

3. Rural/Urban: Rural

4. Student Count: 275

5. NSLP Students: 227

6. NSLP Students/Students: 82.545%

7. Discount: 90%

8. Weighted Product: 247.5

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: JOSEPH CONGER ELEM SCHOOL

2. Entity Number: 114329 **NCES:** 41 07080 00483

3. Rural/Urban: Rural

4. Student Count: 270

5. NSLP Students: 167

6. NSLP Students/Students: 61.851%

7. Discount: 80%

8. Weighted Product: 216

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: KLAMATH UNION HIGH SCHOOL

2. Entity Number: 162118 **NCES:** 41 07080 00512

3. Rural/Urban: Rural

4. Student Count: 961

5. NSLP Students: 462

6. NSLP Students/Students: 48.074%

7. Discount: 70%

8. Weighted Product: 672.7

9. Pre-K/Adult Ed/Juv: Y 10. Alt Disc Mech: Y

1. School Name: LUCILE O'NEILL EDUCATION CENTER
2. Entity Number: 16025101 NCES: 41 070 00000
3. Rural/Urban: Rural
4. Student Count: 0 5. NSLP Students: 0 6. NSLP Students/Students:
7. Discount: 25% 8. Weighted Product: 0
9. Pre-K/Adult Ed/Juv: N 10. Alt Disc Mech: N

1. School Name: MAZAMA HIGH SCHOOL
2. Entity Number: 159970 NCES: 41 07080 00513
3. Rural/Urban: Rural
4. Student Count: 970 5. NSLP Students: 389 6. NSLP Students/Students: 40.103%
7. Discount: 70% 8. Weighted Product: 679
9. Pre-K/Adult Ed/Juv: N 10. Alt Disc Mech: N

1. School Name: MILLS ELEMENTARY SCHOOL
2. Entity Number: 114333 NCES: 41 07080 00485
3. Rural/Urban: Rural
4. Student Count: 463 5. NSLP Students: 422 6. NSLP Students/Students: 91.144%
7. Discount: 90% 8. Weighted Product: 416.7
9. Pre-K/Adult Ed/Juv: N 10. Alt Disc Mech: N

1. School Name: PELICAN ELEMENTARY SCHOOL
2. Entity Number: 114327 NCES: 41 07080 00486
3. Rural/Urban: Rural
4. Student Count: 224 5. NSLP Students: 133 6. NSLP Students/Students: 59.375%
7. Discount: 80% 8. Weighted Product: 179.2
9. Pre-K/Adult Ed/Juv: N 10. Alt Disc Mech: N

1. School Name: PONDEROSA JUNIOR HIGH SCHOOL
2. Entity Number: 114331 NCES: 41 07080 00487
3. Rural/Urban: Rural
4. Student Count: 453 5. NSLP Students: 277 6. NSLP Students/Students: 61.147%
7. Discount: 80% 8. Weighted Product: 362.4
9. Pre-K/Adult Ed/Juv: N 10. Alt Disc Mech: N

1. School Name: ROOSEVELT ELEMENTARY SCHOOL
2. Entity Number: 114328 NCES: 41 07080 00489
3. Rural/Urban: Rural
4. Student Count: 322 5. NSLP Students: 85 6. NSLP Students/Students: 26.397%
7. Discount: 60% 8. Weighted Product: 193.2
9. Pre-K/Adult Ed/Juv: N 10. Alt Disc Mech: N

1. School Name: TRANSPORTATION AND MAINTENANCE
2. Entity Number: 16032126 NCES: 41 070 00000
3. Rural/Urban: Rural
4. Student Count: 0 5. NSLP Students: 0 6. NSLP Students/Students:
7. Discount: 75% 8. Weighted Product: 0
9. Pre-K/Adult Ed/Juv: N 10. Alt Disc Mech: N

Block 5: Discount Funding Request(s)

FRN: 1591536 FCDL Date: 11/06/2007	
10. Original FRN:	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 663300000490231
13. SPIN: 143009331	14. Service Provider Name: Hunter Construction, Inc.
15a. Non-Contracted tariffed/Month to Month Service:	15b. Contract Number: 2090
15c. Covered under State Master Contract:	15d. FRN from Previous Year: 1484173
16a. Billing Account Number: 541-883-4700	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 01/27/2004	18. Contract Award Date: 02/04/2004
19a. Service Start Date: 07/01/2007	19b. Service End Date:
20. Contract Expiration Date: 06/30/2009	
21. Attachment #: 1	22. Block 4 Worksheet No.: 902826
23a. Monthly Charges: \$4,400.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$4,400.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$52,800.00	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$52,800.00	
23j. % discount (from Block 4): 75	
23k. Funding Commitment Request (23i x 23j): \$39,600.00	

FRN: 1591572 FCDL Date: 11/06/2007	
10. Original FRN: 1489950	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 173950000580886
13. SPIN: 143000531	14. Service Provider Name: Crook County RSA Limited Partnership dba U.S. Cellular
15a. Non-Contracted tariffed/Month to Month Service:	15b. Contract Number: TC-0205-237
15c. Covered under State Master Contract:	15d. FRN from Previous Year: 1489950
16a. Billing Account Number: 541-883-4700	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 02/15/2006	18. Contract Award Date: 04/16/2006
19a. Service Start Date: 07/01/2007	19b. Service End Date:
20. Contract Expiration Date: 03/31/2008	
21. Attachment #: 3	22. Block 4 Worksheet No.: 902826
23a. Monthly Charges: \$1,150.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$1,150.00	23d. Number of months of service: 9
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$10,350.00	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$10,350.00	
23j. % discount (from Block 4): 75	
23k. Funding Commitment Request (23i x 23j): \$7,762.50	

FRN: 1591691 FCDL Date: 11/06/2007	
10. Original FRN: 1484469	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 173950000580886
13. SPIN: 143024737	14. Service Provider Name: Oregon Telecom, Inc.

15a. Non-Contracted tariffed/Month to Month Service: Y	15b. Contract Number: MTM
15c. Covered under State Master Contract:	15d. FRN from Previous Year:
16a. Billing Account Number: 541-883-4700	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 02/15/2006	18. Contract Award Date:
19a. Service Start Date: 07/01/2007	19b. Service End Date: 06/30/2008
20. Contract Expiration Date:	
21. Attachment #: 2	22. Block 4 Worksheet No.: 902826
23a. Monthly Charges: \$8,900.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$8,900.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$106,800.00	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$106,800.00	
23j. % discount (from Block 4): 75	
23k. Funding Commitment Request (23i x 23j): \$80,100.00	

Block 6: Certifications and Signature

Application ID:575579

Do not write in this area.

Entity Number	145061	Applicant's Form Identifier	471-Y10
Contact Person	Scott Mahaffey	Phone Number	541-883-4756

Block 6: Certifications and Signature

24. ☒ I certify that the entities listed in Block 4 of this application are eligible for support because they are: (check one or both)
- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools including, but not limited to elementary, secondary schools, colleges, or universities
25. ☒ I certify that the entity I represent or the entities listed on this application have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that the entities I represent or the entities listed in this application have secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

a.	Total funding year pre-discount amount on this Form 471 (Add the entities from Item 23i on all Block 5 Discount Funding Requests.)	\$169,950.00
----	--	--------------

b.	Total funding commitment request amount on this Form 471 (Add the entities from Items 23K on all Block 5 Discount Funding Requests.)	\$127,462.50
c.	Total applicant non-discount share (Subtract Item 25b from Item 25a.)	\$42,487.50
d.	Total budgeted amount allocated to resources not eligible for E-rate support	\$70,000.00
e.	Total amount necessary for the applicant to pay the non-discount share of the services requested on this application AND to secure access to the resources necessary to make effective use of the discounts. (Add Items 25c and 25d.)	\$112,487.50
f.	<input type="checkbox"/> Check this box if you are receiving any of the funds in Item 25e directly from a service provider listed on any Forms 471 filed by this Billed Entity for this funding year, or if a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year assisted you in locating funds in Items 25e.	


26. ☒ I certify that all of the schools and libraries or library consortia listed in Block 4 of this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, and an SLD-certified technology plan approver, prior to the commencement of service. The plans are written at the following level(s):

a. ☒ an individual technology plan for using the services requested in this application; and/or

b. ☐ higher-level technology plan(s) for using the services requested in this application; or

c. ☐ no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.

27. ☒ I certify that I posted my Form 470 and (if applicable) made my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.



0 4 7 0 0 1 0 1 0

28. ☒ I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.

29. ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the Billed Entity has not received anything of value or a promise of anything of value, other than services and equipment requested under this form, from the service provider(s) or any representative or agent thereof or any consultant in connection with this request for services.

30. ☒ I certify that I and the entity(ies) I represent have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There are signed contracts covering all of the services listed on this Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

31. ☒ I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

32. ☒ I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

33. ☒ I certify that I am authorized to order telecommunications and other supported services for the eligible entity

(ies) listed on this application. I certify that I am authorized to submit this request on behalf of the eligible entity (ies) listed on this application, that I have examined this request, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of this program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under the Title 18 of the United States Code, 18 U.S.C. Sec. 1001 and civil violations of the False Claims Act.

34. ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
35. ☒ I certify that if any of the Funding Requests on this Form 471 are for discounts for products or services that contain both eligible and ineligible components, that I have allocated the cost of the contract to eligible and ineligible companies as required by the Commission's rules at 47 C.F.R. Sec. 54.504(g)(1),(2).
36. ☒ I certify that this funding request does not constitute a request for internal connections services, except basic maintenance services, in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. Sec. 54.506(c).
37. ☒ I certify that the non-discounted portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services features on this Form 471 are net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

38. Signature of authorized person

39. Signature Date **2/6/2007**

The Americans with Disabilities Act, the Individuals with Disabilities Education Act and the Rehabilitation Act may impose obligations on entities to make the services purchased with these discounts accessible to and usable by people with disabilities.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you owe a past due debt to the Federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these

agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 471
P.O. Box 7026
Lawrence, Kansas 66044-7026**

**For express delivery services or U.S. Postal Service, Return Receipt Requested,
mail this form to:**

**SLD Forms
ATTN: SLD Form 471
3833 Greenway Drive
Lawrence, Kansas 66046
(888) 203-8100**

Print

<< Previous

1997 - 2007 © , Universal Service Administrative Company, All Rights Reserved

KLAMATH FALLS CITY SCHOOLS
BEN 145061
471 # 575579, FRN 1591691
Letter of Appeal
Federal Communications Commission
March 6, 2008

NOTE 2 - Klamath_Appeal_575579_ADL_1-25-08



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2007-2008

January 25, 2008

Richard Larson
eRate Consulting Services, LLC
141 New Road, Suite 2I
Parsippany, NJ 07054

Re: Applicant Name: KLAMATH FALLS CITY SCHOOLS
Billed Entity Number: 145061
Form 471 Application Number: 575579
Funding Request Number(s): 1591691
Your Correspondence Dated: January 07, 2008

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2007 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1591691
Decision on Appeal: **Denied**
Explanation:

- Upon thorough review of the appeal letter and the relevant documentation, USAC has determined that Klamath Falls City Schools is in violation of the Schools and Libraries support mechanism competitive bidding rules. According to USAC records, the services requested are delivered on a Month-to-Month or Tariff basis. Form 470 application number 173950000580886 was not filed in the same Funding Year as the Form 471. During initial review, Klamath Falls City Schools was contacted by Program Integrity Assurance (PIA) and requested to provide the Funding Year 2007 Form 470 that established the competitive bidding for these tariff or month-to-month services. Klamath Falls City Schools was informed that the rules of this program require that services delivered on a tariff or month-to-month basis be posted for 28-Days to a new Form 470 each funding year. Additionally, Klamath Falls City Schools was informed that since the referenced

Form 470 was filed in a previous funding year the request is in violation of this support mechanism competitive bidding requirements relating to tariff and month-to-month services. Klamath Falls City Schools replied in a fax dated August 24, 2007 that Klamath Falls City Schools had not filed a FY2007 Form 470 for these services. Klamath Falls City Schools was notified that the FRN will be denied and was given the opportunity to provide alternative information, but Klamath Falls City Schools did not provide alternative information. The program competitive bidding violation was not cured and the request was denied. On appeal, you have failed to provide evidence that USAC erred in its initial decision.

- The FCC Form 471 you submitted to USAC indicates that you are seeking support for tariff or month-to-month services. Since these types of services are not subject to a multi-year contract, they need to be competitively bid for each funding year. Therefore, you should have posted a new FCC Form 470 to the website in this funding year to inform potential bidders that you were seeking these services. Consequently, USAC denies your appeal because you did not comply with the competitive bidding requirement that your FCC Form 470 be posted to the website for 28 days.
- The FCC Form 470 associated with your funding request is for a prior funding year. Your FCC Form 471 indicates that you are seeking discounts for tariff or month-to-month services for the current funding year. FCC rules require that except under limited circumstances, all FCC Forms 470 received be posted on the USAC website for 28 days, and that applicants carefully consider all bids received before selecting a vendor, entering into an agreement or signing a contract, and signing and submitting an FCC Form 471. See 47 C.F.R. secs. 54.504(a) - (c), 54.511(a) and (c). These competitive bidding requirements help ensure that applicants receive the lowest pre-discount price from vendors. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, 12 FCC Rcd 10095, 10098, FCC 97-246 para. 9 (rel. Jul. 10, 1997). This posting requirement applies to requests for discounts for month-to-month or tariff services as well as contracted services. See 47 C.F.R. sec. 54.504(b).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Scott Mahaffey



Universal Service Administrative Company
Helping Keep Americans Connected

Schools & Libraries – Competitive Bidding Process

The competitive bidding process begins when an applicant posts the Form 470 to the USAC website and/or issues an RFP. The applicant must then wait 28 days after the Form 470 is posted or an RFP is issued (whichever is later) before selecting a service provider, ordering services and/or executing a contract.

Conduct an open, fair competitive bidding process

- “Open” means that there are no secrets in the process and that all bidders have equal access to the same information.
- “Fair” means that all bidders are treated the same and that no bidder has privileged knowledge over the contents of the Request for Proposal (RFP) or the Form 470.

Service provider involvement in the competitive bidding process

- Service provider involvement in the preparation or certification of the Form 470 or the vendor selection can taint the competitive bidding process and result in denials.
- Applicants cannot turn over their responsibility for ensuring a fair and open competitive bidding process to a service provider or a consultant acting on behalf of a service provider. Only applicants or authorized representatives can prepare, sign and submit (i.e., post to the website or file on paper) the Form 470 and certification.
- Listing a service provider representative as the Form 470 contact person and allowing the same service provider to participate in the competitive bidding process is a violation of FCC rules and will result in denial of funding.
- Service providers who bid on services must not participate in the evaluation process.

Select the winning bid

- Price of the eligible products and services must be the primary factor under consideration when evaluating bids. It does not have to be the sole factor. Examples of relevant factors include: prior experience, personnel qualifications, management capability, environmental objectives, and the cost of ineligible goods and services.
- The selected bid must be cost-effective in comparison to prices available commercially. If you receive only one bid, it is not necessarily cost-effective.

Retain all documents for a period of five years from the last date of service

- This includes:
 - Request For Proposal (RFP), with evidence of publication date
 - Bid evaluation matrix, criteria and weighting
 - Bid evaluation worksheets
 - All written correspondence with the service providers
 - All bids submitted, both winning and losing
 - Other documentation related to service provider selection

For additional information, please use the USAC resources listed below:

28 Day Waiting Period:	http://www.usac.org/applicants/elec01/28-day-waiting-period.aspx
Competitive Process:	http://www.usac.org/applicants/elec02/
Open & Fair Bidding:	http://www.usac.org/applicants/elec03/un-open-fair-competition.aspx
Selecting Service Provider:	http://www.usac.org/applicants/elec04/

Richard Larson
eRate Consulting Services, LLC
141 New Road, Suite 2I
Parsippany, NJ 07054

Billed Entity Number: 145061
Form 471 Application Number: 575579
Form 486 Application Number:

KLAMATH FALLS CITY SCHOOLS
BEN 145061
471 # 575579, FRN 1591691
Letter of Appeal
Federal Communications Commission
March 6, 2008

NOTE 3 - FY9_470_173950000580886_app

FCC Form

Approval by OMB
3060-0806**470****Schools and Libraries Universal Service
Description of Services Requested
and Certification Form**

Estimated Average Burden Hours Per Response: 4.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this application.

(To be completed by entity that will negotiate with providers.)

Block 1: Applicant Address and IdentificationsForm 470 Application Number: **173950000580886**Applicant's Form Identifier: **470-Y9-T**Application Status: **CERTIFIED**Posting Date: **01/18/2006**Allowable Contract Date: **02/15/2006**Certification Received Date: **01/18/2006****1. Name of Applicant:****KLAMATH FALLS CITY SCHOOLS****2. Funding Year:****07/01/2006 - 06/30/2007****3. Your Entity Number****145061****4a. Applicant's Street Address, P.O.Box, or Route Number****1336 AVALON**

City

KLAMATH FALLS

State

OR

Zip Code

97603**b. Telephone number****(541) 883- 4700****c. Fax number****(541) 883- 4725****5. Type Of Applicant**

Individual School (individual public or non-public school)



School District (LEA;public or non-public[e.g., diocesan] local district representing multiple schools)



Library (including library system, library outlet/branch or library consortium as defined under LSTA)



Consortium (intermediate service agencies, states, state networks, special consortia of schools and/or libraries)

6a. Contact Person's Name: Paul Peterson

First, if the Contact Person's Street Address is the same as in **Item 4** above, check this box. If not, please complete the entries for the Street Address below.

6b. Street Address, P.O.Box, or Route Number**1336 AVALON**

City

State

Zip Code

KLAMATH FALLS**OR****97603**

Check the box next to your preferred mode of contact and provide your contact information. One box **MUST** be checked and an entry provided.

☒ **6c. Telephone Number** **(541) 883- 4700**

☒ **6d. Fax Number** **(541) 883- 4725**

☒ **6e. E-mail Address** **petersonp@kfalls.k12.or.us**

Block 2: Summary Description of Needs or Services Requested

7 This Form 470 describes (check all that apply):

a. ☒ Tariffed or month-to-month services to be provided without a written contract. A new Form 470 must be filed for non-contracted tariffed or month-to-month services for each funding year.

b. ☒ Services for which a new written contract is sought for the funding year in Item 2.
Check if you are seeking ☐ a multi-year contract and/or ☐ a contract featuring voluntary extensions

c. ☐ A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous funding year.

NOTE: Services that are covered by a signed, written contract executed pursuant to posting of a Form 470 in a previous funding year OR a contract signed on/before 7/10/97 and previously reported on a Form 470 as an existing contract do NOT require filing of a new Form 470.

What kinds of service are you seeking: Telecommunications Services, Internet Access, Internal Connections Other than Basic Maintenance, or Basic Maintenance of Internal Connections? Refer to the Eligible Services List at www.sl.universalservice.org for examples. Check the relevant category or categories (8, 9, 10 and/or 11 below), and answer the questions in each category you select.

8 ☒ Telecommunications Services

Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.

a ☐ **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at at or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b ☒ **NO**, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Telecommunications Services you seek. Specify each service or function (e.g., local voice service) and quantity and/or capacity (e.g., 20 existing lines plus 10 new ones). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

c ☐ **Check this box if you prefer discounts on your bill.** ☐ **Check this box if you prefer reimbursement after paying your bill in full.** ☐ **Check this box if you do not have a preference.**

Service or Function:	Quantity and/or Capacity:
Plain Old Telephone Service	150 phone lines on 220 phones
Point to Point Circuits	6 circuits
Cellular Phone Service	service for 40 cell phones
Long Distance Telephone Service	service on 150 phone lines

9 ☐ Internet Access

Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.

a ☐ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):

☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b ☐ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Internet Access Services you seek. Specify each **service or function** (e.g., monthly Internet service) and quantity and/or capacity (e.g., for 500 users). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

c ☐ Check this box if you prefer discounts on your bill.

☐ Check this box if you prefer reimbursement after paying your bill in full.

☐ Check this box if you do not have a preference.

10 ☐ Internal Connections Other than Basic Maintenance

Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.

a ☐ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):

☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b ☐ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Internal Connections Services you seek. Specify each **service or function** (e.g., a router, hub and cabling) and quantity and/or capacity (e.g., connecting 1 classroom of 30 students). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

c ☐ Check this box if you prefer discounts on your bill.

☐ Check this box if you prefer reimbursement after paying your bill in full.

☐ Check this box if you do not have a preference.

11 ☐ Basic Maintenance of Internal Connections

Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.

a ☐ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):

☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b ☐ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Basic Maintenance Services you seek. Specify each **service or function** (e.g., basic maintenance of routers) and quantity and/or capacity (e.g., for 10 routers). See the Eligible Services List at www.sl.universalservice.org for examples of eligible

Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

☒ **Check this box if you prefer discounts on your bill.**

☐ **Check this box if you prefer reimbursement after paying your bill in full.**

☐ **Check this box if you do not have a preference.**

12 (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This need not be the contact person listed in Item 6 nor the Authorized Person who signs this form.

Name:

Title:

Telephone number

() -

Fax number

() -

E-mail Address

13a. ☐ Check this box if there are any restrictions imposed by state or local laws or regulations on how or when service providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or a Web address where they are posted and provide a contact name and telephone number.

☐ Check this box if no state and local procurement/competitive bidding requirements apply to the procurement of services sought on this Form 470.

13b. If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, you may summarize below(including the likely timeframes). If you are requesting services for a funding year for which a Form 470 cannot yet be filed online, include that information here.

Plain Old Telephone Services and associated Long Distance Services will be ongoing through subsequent years. Cellular service will be ongoing as well, and renewed each year.

Block 3: Technology Resources

14. ☐ **Basic telephone service only:** If your application is for basic telephone service and voice mail only, check this box and skip to Item 16. Basic telephone service is defined as wireline or wireless single line voice service (local, cellular/PCS, and/or long distance) and mandatory fees associated with such service (e.g., federal and state taxes and universal service fees).

15. Although the following services and facilities are ineligible for support, they are usually necessary to make effective use of the eligible services requested in this application. Unless you indicated in Item 14 that your application is ONLY for basic telephone service, you must check at least one box in (a) through (e). You may provide details for purchases being sought.

a. Desktop software: Software required ☒ has been purchased; and/or ☐ is being sought.

b. Electrical systems: ☒ adequate electrical capacity is in place or has already been arranged; and/or ☐ upgrading for additional electrical capacity is being sought.

c. Computers: a sufficient quantity of computers ☒ has been purchased; and/or ☐ is being sought.

d. Computer hardware maintenance: adequate arrangements ☒ have been made; and/or ☐ are being sought.

e. Staff development: ☒ all staff have had an appropriate level of training /additional training has already been scheduled; and/or ☐ training is being sought.

f. Additional details: Use this space to provide additional details to help providers to identify the services you desire.

Block 4: Recipients of Service

16. Eligible Entities That Will Receive Services:

Check the ONE choice (Item **16a**, **16b** or **16c**) that best describes this application and the eligible entities that will receive the services described in this application. You will then list in Item **17** the entity/entities that will pay the bills for these services.

a. ☐ Individual school or single-site library.

b. ☐ Statewide application for (enter 2-letter state code) representing (check all that apply):

☐ All public schools/districts in the state:

☐ All non-public schools in the state:

☐ All libraries in the state:

If your statewide application includes INELIGIBLE entities, check here. ☐ If checked, complete Item 18.

c. ☐ School district, library system, or consortium application to serve multiple eligible entities:

Number of eligible sites	9
<i>For these eligible sites, please provide the following</i>	
Area Codes (list each unique area code)	Prefixes associated with each area code (first 3 digits of phone number) separate with commas, leave no spaces
541	273,551,850,882,883,884,885

17. Billed Entities

17. Billed Entities: List the entity/entities that will be paying the bills directly to the provider for the services requested in this application. These are known as Billed Entities. At least one line of this item must be completed. If a Billed Entity cited on your Form 471 is not listed below, funding may be denied for the funding requests associated with this Form 470.

Entity	Entity Number
KLAMATH FALLS CITY SCHOOLS	145061

18. Ineligible Participating Entities

List the names of any entity/entities here for whom services are requested that are not eligible for the Universal Service Program.

Ineligible Participating Entity

Area Code

Prefix

Block 5: Certification and Signature

19. ☒ I certify that the applicant includes:(Check one or both.)

a. ☒ schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C.Secs.7081(18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or

b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges and universities).

20. ☒ I certify that all of the individual schools, libraries, and library consortia receiving services under this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, an SLD-certified technology plan approver, prior to the commencement of service. The plans were written at the following level(s):

a. ☒ individual technology plans for using the services requested in the application, and/or

b. ☐ higher-level technology plans for using the services requested in the application, or

c. ☐ no technology plan needed; application requests basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only

21. ☒ I certify that I will post my Form 470 and (if applicable) make my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology plan goals. I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the status and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

22. ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the entity or entities listed on this application have not received anything of value or a promise of anything of value, other than the services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.


23. ☒ I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support.

24. ☒ I certify that I am authorized to order telecommunications and other supported services for the eligible entity (ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. ☒ I certify that I have reviewed all applicable state and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form can be punished by fine or forfeiture, under the Commissions Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

26. ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to

suspension and debarment from the program.

27. Signature of authorized person: 

28. Date (mm/dd/yyyy): **01/18/2006**

29. Printed name of authorized person: **Paul Peterson**

30. Title or position of authorized person: **IT Director**

31a. Address of authorized person: **1336 Avalon**

City: **Klamath Falls** State: **OR** Zip: **97603**

31b. Telephone number of authorized person: **(541) 883 - 4700**

31c. Fax number of authorized person: **(541) 8834725**

31d. E-mail address number of authorized person: **petersonp@kfalls.k12.or.us**

31e. Name of authorized person's employer: **Klamath Falls City Schools**

Service provider involvement with preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests. For more information, refer to the SLD web site at www.sl.universalservice.org or call the Client Service Bureau at 1-888-203-8100.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

SLD-Form 470

**P.O. Box 7026
Lawrence, Kansas 66044-7026
1-888-203-8100**

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

**SLD Forms
ATTN: SLD Form 470
3833 Greenway Drive
Lawrence, Kansas 66046
1-888-203-8100**

FCC Form 470
November 2004

[New Search](#)

[Return To Search Results](#)

KLAMATH FALLS CITY SCHOOLS
BEN 145061
471 # 575579, FRN 1591691
Letter of Appeal
Federal Communications Commission
March 6, 2008

NOTE 4 - FY9_471_536242_app

FCC Form 471

Do not write in this area.

Approval by OMB
3060-0806**Schools and Libraries Universal Service
Description of Services Ordered and Certification Form 471****Estimated Average Burden Hours per Response: 4 hours**

This form asks schools and libraries to list the eligible telecommunications-related services they have ordered and estimate the annual charges for them so that the Fund Administrator can set aside sufficient support to reimburse providers for services.

Please read instructions before beginning this application. (You can also file online at www.sl.universalservice.org.)
The instructions include information on the deadlines for filing this application.

Applicant's Form Identifier(Create your own code to identify THIS form 471)
471-Y9**Form 471 Application#**

(To be assigned by administrator)

536242

Block 1: Billed Entity Information (The "Billed Entity" is the entity paying the bills for the service listed on this form.)**1 a** Name of Billed Entity
KLAMATH FALLS CITY SCHOOLS**2 a** Funding Year: July 1, 2006 Through June 30: 2007
Billed Entity Number: 145061**4 a** Street Address,
P.O. Box,
or Routing Number
1336 AVALONCity
KLAMATH FALLSState
OR

Zip Code 97603

5 a Type of Application
☐ Individual School (individual public or non-public school)
☒ School District (LEA; public or non-public [e.g. diocesan] local district representing multiple schools)
☐ Library (including library system, library outlet/branch or library consortium as defined under LSTA)
☐ Consortium ☐ Check here if any members of this consortium are ineligible or non-governmental entities**6** Contact Person's Name
Scott MahaffeyFirst, if the Contact Person's Street Address is the same as in Item 4, check this box. ☐ If not, please complete the entries for the Street Address below.**b** Street Address,
P.O. Box,
or Routing Number
1440 AVALONCity
KLAMATH FALLSState
OR

Zip Code 97603



0 4 7 0 0 1 0 1 0

Page 1 of 7

FCC Form 471 - November 2004

Entity Number 145061

Contact Person Scott Mahaffey

Applicant's Form Identifier 471-Y9

Phone Number 541-883-4756

This information will facilitate the processing of your applications. Please complete all rows that apply to services for which you are requesting discounts. Complete this information on the FIRST Form 471 you file, to encompass this and all other Forms 471 you will file for this funding year. You need not complete this information on subsequent Forms 471. Provide your best estimates for the services ordered across ALL of your Forms 471.

Schools/school districts complete Item 7. Libraries complete Item 8. Consortia complete Item 7 and/or Item 8.

Block 2: Impact of Services Ordered on Schools

IF THIS APPLICATION INCLUDES SCHOOLS...		BEFORE ORDER	AFTER ORDER
7a	Number of students to be served		3951
b	Telephone service: Number of classrooms with phone service	162	162
d	Direct broadband services: Number of buildings served at the following speeds: Greater than 200 mbps	9	9
e	Direct connections to the Internet: Number of drops	1500	1500
f	Number of classrooms with Internet access	440	440
g	Number of computers or other devices with Internet access	1500	1500

Block 3: Impact of Services Ordered on Libraries

NOT APPLICABLE AS THIS APPLICATION IS FOR DISTRICT

Worksheet A No: 815095

Student Count: 4080

Weighted Product (Sum. Column 8): 3072.3

Shared Discount: 75%

1. School Name: FAIRVIEW ELEMENTARY SCHOOL

2. Entity Number: 114335 **NCES:** 41 07080 00482

3. Rural/Urban: Rural

4. Student Count: 281

5. NSLP Students: 232

6. NSLP Students/Students: 82.562%

7. Discount: 90%

8. Weighted Product: 252.9

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: JOSEPH CONGER ELEM SCHOOL

2. Entity Number: 114329 **NCES:** 41 07080 00483

3. Rural/Urban: Rural

4. Student Count: 291

5. NSLP Students: 173

6. NSLP Students/Students: 59.450%

7. Discount: 80%

8. Weighted Product: 232.8

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: KLAMATH UNION HIGH SCHOOL

2. Entity Number: 162118 **NCES:** 41 07080 00512

3. Rural/Urban: Rural

4. Student Count: 1000

5. NSLP Students: 485

6. NSLP Students/Students: 48.500%

7. Discount: 70%

8. Weighted Product: 700

9. Pre-K/Adult Ed/Juv: N

10. Alt Disc Mech: N

1. School Name: LUCILE O'NEILL EDUCATION CENTER

2. Entity Number: 16025101 **NCES:** 41 070 00000

3. Rural/Urban: Rural	5. NSLP Students: 0	6. NSLP Students/Students:
4. Student Count: 0	8. Weighted Product: 0	
7. Discount: 75%	10. Alt Disc Mech: N	
9. Pre-K/Adult Ed/Juv: N		

1. School Name: MAZAMA HIGH SCHOOL		
2. Entity Number: 159970	NCES: 41 07080 00513	
3. Rural/Urban: Rural		
4. Student Count: 994	5. NSLP Students: 490	6. NSLP Students/Students: 49.295%
7. Discount: 70%	8. Weighted Product: 695.8	
9. Pre-K/Adult Ed/Juv: N	10. Alt Disc Mech: N	

1. School Name: MILLS ELEMENTARY SCHOOL		
2. Entity Number: 114333	NCES: 41 07080 00485	
3. Rural/Urban: Rural		
4. Student Count: 486	5. NSLP Students: 436	6. NSLP Students/Students: 89.711%
7. Discount: 90%	8. Weighted Product: 437.4	
9. Pre-K/Adult Ed/Juv: N	10. Alt Disc Mech: N	

1. School Name: PELICAN ELEMENTARY SCHOOL		
2. Entity Number: 114327	NCES: 41 07080 00486	
3. Rural/Urban: Rural		
4. Student Count: 195	5. NSLP Students: 113	6. NSLP Students/Students: 57.948%
7. Discount: 80%	8. Weighted Product: 156	
9. Pre-K/Adult Ed/Juv: N	10. Alt Disc Mech: N	

1. School Name: PONDEROSA JUNIOR HIGH SCHOOL		
2. Entity Number: 114331	NCES: 41 07080 00487	
3. Rural/Urban: Rural		
4. Student Count: 488	5. NSLP Students: 300	6. NSLP Students/Students: 61.475%
7. Discount: 80%	8. Weighted Product: 390.4	
9. Pre-K/Adult Ed/Juv: N	10. Alt Disc Mech: N	

1. School Name: ROOSEVELT ELEMENTARY SCHOOL		
2. Entity Number: 114328	NCES: 41 07080 00489	
3. Rural/Urban: Rural		
4. Student Count: 345	5. NSLP Students: 99	6. NSLP Students/Students: 28.695%
7. Discount: 60%	8. Weighted Product: 207	
9. Pre-K/Adult Ed/Juv: N	10. Alt Disc Mech: N	

1. School Name: TRANSPORTATION AND MAINTENANCE		
2. Entity Number: 16032126	NCES: 41 070 00000	
3. Rural/Urban: Rural		
4. Student Count: 0	5. NSLP Students: 0	6. NSLP Students/Students:
7. Discount: 75%	8. Weighted Product: 0	
9. Pre-K/Adult Ed/Juv: N	10. Alt Disc Mech: N	

Block 5: Discount Funding Request(s)

FRN: 1484173 FCDL Date: 01/18/2007	
10. Original FRN:	
11. Category of Service: Telecommunications	12. 470 Application Number: 663300000490231

Service	
13. SPIN: 143009331	14. Service Provider Name: Hunter Construction, Inc.
15a. Non-Contracted tariffed/Month to Month Service:	15b. Contract Number: 2090
15c. Covered under State Master Contract:	15d. FRN from Previous Year: 1337436
16a. Billing Account Number: 541-883-4700	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 01/27/2004	18. Contract Award Date: 02/04/2004
19a. Service Start Date: 07/01/2006	19b. Service End Date:
20. Contract Expiration Date: 06/30/2009	
21. Attachment #: 1	22. Block 4 Worksheet No.: 815095
23a. Monthly Charges: \$4,400.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$4,400.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$52,800.00	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$52,800.00	
23j. % discount (from Block 4): 75	
23k. Funding Commitment Request (23i x 23j): \$39,600.00	

FRN: 1484469 FCDL Date: 01/18/2007	
10. Original FRN:	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 173950000580886
13. SPIN: 143024737	14. Service Provider Name: Oregon Telecom, Inc.
15a. Non-Contracted tariffed/Month to Month Service: Y	15b. Contract Number: MTM
15c. Covered under State Master Contract:	15d. FRN from Previous Year:
16a. Billing Account Number:	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 02/15/2006	18. Contract Award Date:
19a. Service Start Date: 07/01/2006	19b. Service End Date: 06/30/2007
20. Contract Expiration Date:	
21. Attachment #: 2	22. Block 4 Worksheet No.: 815095
23a. Monthly Charges: \$7,500.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$7,500.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$90,000.00	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$90,000.00	
23j. % discount (from Block 4): 75	
23k. Funding Commitment Request (23i x 23j): \$67,500.00	

FRN: 1485017 FCDL Date: 01/18/2007	
10. Original FRN:	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 901220000581922
13. SPIN: 143024737	14. Service Provider Name: Oregon Telecom, Inc.
15a. Non-Contracted tariffed/Month to Month Service: Y	15b. Contract Number: MTM
15c. Covered under State Master Contract:	15d. FRN from Previous Year:
16a. Billing Account Number: 541-883-4700	16b. Multiple Billing Account Numbers?:

17. Allowable Contract Date: 02/16/2006	18. Contract Award Date:
19a. Service Start Date: 07/01/2006	19b. Service End Date: 06/30/2007
20. Contract Expiration Date:	
21. Attachment #: 3	22. Block 4 Worksheet No.: 815095
23a. Monthly Charges: \$2,250.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$2,250.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$27,000.00	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$27,000.00	
23j. % discount (from Block 4): 75	
23k. Funding Commitment Request (23i x 23j): \$20,250.00	

FRN: 1486216 FCDL Date: 01/18/2007	
10. Original FRN:	
11. Category of Service: Internal Connections	12. 470 Application Number: 522900000580944
13. SPIN: 143030414	14. Service Provider Name: Basin Telecommunications, Inc
15a. Non-Contracted tariffed/Month to Month Service:	15b. Contract Number: 493
15c. Covered under State Master Contract:	15d. FRN from Previous Year:
16a. Billing Account Number: 541-883-4700	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 02/15/2006	18. Contract Award Date: 02/16/2006
19a. Service Start Date: 07/01/2006	19b. Service End Date:
20. Contract Expiration Date: 06/30/2007	
21. Attachment #: 4	22. Block 4 Worksheet No.: 815095
23a. Monthly Charges: \$.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$0.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$0.00	
23f. Annual non-recurring (one-time) charges: 101265.54	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$101,265.54	
23i. Total program year pre-discount amount (23e + 23h): \$101,265.54	
23j. % discount (from Block 4): 75	
23k. Funding Commitment Request (23i x 23j): \$75,949.16	

FRN: 1489950 FCDL Date: 01/18/2007	
10. Original FRN:	
11. Category of Service: Telecommunications Service	12. 470 Application Number: 173950000580886
13. SPIN: 143000531	14. Service Provider Name: Crook County RSA Limited Partnership dba U.S. Cellular
15a. Non-Contracted tariffed/Month to Month Service:	15b. Contract Number: TC-0205-237
15c. Covered under State Master Contract:	15d. FRN from Previous Year:
16a. Billing Account Number: 541-883-4700	16b. Multiple Billing Account Numbers?:
17. Allowable Contract Date: 02/15/2006	18. Contract Award Date: 02/16/2006
19a. Service Start Date: 07/01/2006	19b. Service End Date:
20. Contract Expiration Date: 06/30/2007	
21. Attachment #: 5	22. Block 4 Worksheet No.: 815095
23a. Monthly Charges: \$850.00	23b. Ineligible monthly amt.: \$.00

23c. Eligible monthly amt.: \$850.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$10,200.00	
23f. Annual non-recurring (one-time) charges: 0	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$0.00	
23i. Total program year pre-discount amount (23e + 23h): \$10,200.00	
23j. % discount (from Block 4): 75	
23k. Funding Commitment Request (23i x 23j): \$7,650.00	

Block 6: Certifications and Signature

Application ID:536242

Do not write in this area.

Entity Number	145061	Applicant's Form Identifier	471-Y9
Contact Person	Scott Mahaffey	Phone Number	541-883-4756

Block 6: Certifications and Signature

24. ☒ I certify that the entities listed in Block 4 of this application are eligible for support because they are: (check one or both)
- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools including, but not limited to elementary, secondary schools, colleges, or universities
25. ☒ I certify that the entity I represent or the entities listed on this application have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that the entities I represent or the entities listed in this application have secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

a.	Total funding year pre-discount amount on this Form 471 (Add the entities from Item 23i on all Block 5 Discount Funding Requests.)	\$281,265.54
b.	Total funding commitment request amount on this Form 471 (Add the entities from Items 23K on all Block 5 Discount Funding Requests.)	\$210,949.16
c.	Total applicant non-discount share (Subtract Item 25b from Item 25a.)	\$70,316.38
d.	Total budgeted amount allocated to resources not eligible for E-rate support	\$45,000.00
e.	Total amount necessary for the applicant to pay the non-discount share of the services requested on this application AND to secure access to the resources necessary to make effective use of the discounts. (Add Items 25c and 25d.)	\$115,316.38

- f. ☐ Check this box if you are receiving any of the funds in Item 25e directly from a service provider listed on any Forms 471 filed by this Billed Entity for this funding year, or if a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year assisted you in locating funds in Items 25e.

26. ☒ I certify that all of the schools and libraries or library consortia listed in Block 4 of this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, and an SLD-certified technology plan approver, prior to the commencement of service. The plans are written at the following level(s):

- a. ☒ an individual technology plan for using the services requested in this application; and/or
 b. ☐ higher-level technology plan(s) for using the services requested in this application; or
 c. ☐ no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.

27. ☒ I certify that I posted my Form 470 and (if applicable) made my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.



28. ☒ I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.

29. ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the Billed Entity has not received anything of value or a promise of anything of value, other than services and equipment requested under this form, from the service provider(s) or any representative or agent thereof or any consultant in connection with this request for services.

30. ☒ I certify that I and the entity(ies) I represent have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There are signed contracts covering all of the services listed on this Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

31. ☒ I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

32. ☒ I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

33. ☒ I certify that I am authorized to order telecommunications and other supported services for the eligible entity (ies) listed on this application. I certify that I am authorized to submit this request on behalf of the eligible entity (ies) listed on this application, that I have examined this request, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of this program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under the Title 18 of the United States Code, 18 U.S.C. Sec. 1001 and civil violations of the False Claims Act.

34. ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed,

and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

35. ☒ I certify that if any of the Funding Requests on this Form 471 are for discounts for products or services that contain both eligible and ineligible components, that I have allocated the cost of the contract to eligible and ineligible companies as required by the Commission's rules at 47 C.F.R. Sec. 54.504(g)(1),(2).
36. ☒ I certify that this funding request does not constitute a request for internal connections services, except basic maintenance services, in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. Sec. 54.506(c).
37. ☒ I certify that the non-discounted portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services features on this Form 471 are net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

38. Signature of authorized person

39. Signature Date **2/16/2006**

The Americans with Disabilities Act, the Individuals with Disabilities Education Act and the Rehabilitation Act may impose obligations on entities to make the services purchased with these discounts accessible to and usable by people with disabilities.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you owe a past due debt to the Federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this

collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 471
P.O. Box 7026
Lawrence, Kansas 66044-7026**

**For express delivery services or U.S. Postal Service, Return Receipt Requested,
mail this form to:**

**SLD Forms
ATTN: SLD Form 471
3833 Greenway Drive
Lawrence, Kansas 66046
(888) 203-8100**

Print

<< Previous

1997 - 2007 © , Universal Service Administrative Company, All Rights Reserved

KLAMATH FALLS CITY SCHOOLS
BEN 145061
471 # 575579, FRN 1591691
Letter of Appeal
Federal Communications Commission
March 6, 2008

NOTE 6 - Bishop_Perry_ex_appendices_5-19-06

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Bishop Perry Middle School)	File Nos. SLD-487170, <i>et al.</i>
New Orleans, LA, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: May 2, 2006

Released: May 19, 2006

By the Commission: Commissioner Copps issuing a separate statement.

I. INTRODUCTION

1. In this Order, we grant 196 appeals of decisions by the Universal Service Administrative Company (USAC) concerning the schools and libraries universal service support mechanism (also known as the E-rate program) denying funding due to certain clerical or ministerial errors in the application, *i.e.*, a failure to timely file an FCC Form 471, a failure to timely file a certification related to an FCC Form 470, or a failure to comply with minimum processing standards.¹ As explained below, we find that special circumstances exist to justify a waiver of the Commission's rules, and, accordingly, we grant these appeals and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendices, and issue an award or a denial based on a complete review and analysis, no later than 60 days from release of this Order. In addition, we direct USAC to provide all future and pending applicants with a 15-day opportunity to cure any ministerial or clerical errors on their FCC Form 470, FCC Form 471, or associated certifications. We also direct USAC to develop targeted outreach procedures designed to better inform applicants of application procedures.

2. As we recently noted, many E-rate program beneficiaries, particularly small entities, contend that the application process is complicated, resulting in a significant number of applications for E-rate support being denied for ministerial, clerical or procedural errors.² We find that the actions we

¹ In this Order, we use the term "appeals" to generically refer to requests for review of decisions, or waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or the Administrator. A list of these pleadings is attached as Appendices A-C. One of the appeals is a petition for reconsideration of a Commission order filed by the Information Technology Department of the State of North Dakota.

² *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier*

take here to provide relief from these types of errors in the application process will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the Act), by helping to ensure that eligible schools and libraries actually obtain access to discounted telecommunications and information services.³ In particular, we believe that by directing USAC to modify certain application processing procedures and granting a limited waiver of our application filing rules, we will provide for a more effective application processing system that will ensure eligible schools and libraries will be able to realize the intended benefits of the E-rate program as we consider additional steps to reform and improve the E-rate program.⁴ Requiring USAC to take these additional steps will not reduce or eliminate any application review procedures or lessen the program requirements that applicants must comply with to receive funding. Indeed, we retain our commitment to detecting and deterring potential instances of waste, fraud, and abuse by ensuring that USAC continues to scrutinize applications and takes steps to educate applicants in a manner that fosters program participation. We also emphasize that our actions taken in this Order should have minimal effect on the overall federal Universal Service Fund (USF or the Fund), because the monies needed to fund these appeals have already been collected and held in reserve.⁵

II. BACKGROUND

3. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections. The E-rate application process generally begins with a technology assessment and a technology plan.⁶ After developing the technology plan, the applicant must file the FCC Form 470 (FCC Form 470) to request discounted services such as tariffed telecommunications services, month-to-month Internet access, cellular services, or paging services, and any services for which the applicant is seeking a new contract.⁷ The FCC Form 470 must be posted on USAC's schools and libraries division website for at least 28 days.⁸ The applicant must then comply with the Commission's competitive

Association, Inc., WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*).

³ 47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

⁴ *Comprehensive Review NPRM*, 20 FCC Rcd at 11324-25, paras. 37-40 (seeking comment on the application process and competitive bidding requirements for the schools and libraries program).

⁵ We estimate that the appeals granted in this Order involve applications for approximately \$68 million in funding for Funding Years 1999-2005. We note that USAC has already reserved approximately \$585 million to fund outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter 2005, dated August 2, 2005. Thus, we determine that the action we take today should have minimal effect on the USF as a whole.

⁶ 47 U.S.C. § 254(h)(1)(B); 47 C.F.R. § 54.504. Applicants seeking discounts only for telecommunications services do not need to develop a technology plan. See *Request for Review of the Decision of the Universal Service Administrator by United Talmudical Academy, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, CC Docket Nos. 96-45, 97-21, Order, 16 FCC Rcd 18812, 18816, para. 11 (2001). In August, 2004, the Commission revised its rules concerning technology plans. See *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd at 15826-30, paras. 51-63. See *Schools and Libraries Universal Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order, 19 FCC Rcd 15808, 15826-30, paras. 51-63 (2004) (*Schools and Libraries Fifth Report and Order*).

⁷ If the technology plan has not been approved when the applicant files the Form 470, the applicant must certify that it understands that the technology plan must be approved prior to commencement of service. 47 C.F.R. § 54.504(b)(2)(vii).

⁸ 47 C.F.R. § 54.504(b)(4).

bidding requirements set forth in sections 54.504 and 54.511(a) of the Commission's rules.⁹ The applicant then files the FCC Form 471 (FCC Form 471), after entering into agreements for eligible services.¹⁰ Section 54.507 of the Commission's rules states that fund discounts will be available on a first-come-first-served basis.¹¹ Under the Commission's rules, USAC implements an initial filing period, or filing window, for the FCC Form 471 applications that treats all schools and libraries filings within that period as if their applications were simultaneously received.¹²

4. The Commission has vested in USAC the responsibility of administering the application process for the schools and libraries universal service support mechanism.¹³ Pursuant to this authority, USAC has established procedures, including "minimum processing standards," to facilitate its efficient review of the thousands of applications requesting funding that it receives.¹⁴ These minimum processing standards are designed to require an applicant to provide at least the minimum data necessary for USAC to initiate review of the application under statutory requirements and Commission rules. When an applicant submits an FCC Form 470 or FCC Form 471 application that omits information required by the minimum processing standards, USAC automatically returns the application to the applicant without considering it for discounts under the program, without inquiring into the cause of the omission or without providing the applicant with the opportunity to cure the error.¹⁵ For example, if an applicant failed to answer all blocks 1-6 on the FCC Form 471 or failed to submit a properly signed signature certification, the applicant's FCC Form 471 would be rejected and returned to the applicant, without further consideration.¹⁶

5. The Commission has under consideration various appeals filed by parties that have requested funding for discounted services under the schools and libraries universal service support mechanism.¹⁷ The petitioners request review of decisions, or waivers related to such decisions, issued by

⁹ 47 C.F.R. §§ 54.504, 54.511(a).

¹⁰ This form is to request discounts on those services and it contains the discount calculation worksheet and the discount funding request. The FCC Form 471 must be filed each time a school or library orders telecommunications services, Internet access, or internal connections.

¹¹ 47 C.F.R. §§ 54.507(c).

¹² 47 C.F.R. §§ 54.507(c).

¹³ *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Third Report and Order in CC Docket No. 97-21 and Fourth Order on Reconsideration in CC Docket No. 97-21 and Eighth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd 25058 (1998).

¹⁴ See, e.g., Instructions for Completing the Universal Service Schools and Libraries Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (December 2002) (FCC Form 471 Instructions) at 6-9.

¹⁵ See, e.g., USAC website, Form 471 Minimum Processing Standards and Filing Requirements for FY 4, <http://www.sl.universalservice.org/reference/471mps.asp> (Minimum Processing Standards).

¹⁶ *Id.* But note, in the *Naperville Order*, the Commission determined that USAC should not return an application without consideration for having omitted information required by USAC's minimum processing standards where: (1) the request for information is a first-time information requirement on a revised form, thereby possibly leading to confusion on the part of the applicants; (2) the omitted information could be easily discerned by USAC through examination of other information included in the application; and (3) the application is otherwise substantially complete. *Request for Review by Naperville Community Unit School District 203, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-203343, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 5032,5037-38, paras. 12-15 (2001) (*Naperville Order*).

¹⁷ See Appendices A-C.

the Commission, the Wireline Competition Bureau, or USAC.¹⁸ The decisions at issue involve the denial of funding based on an applicant's failure to timely file an FCC Form 471, a failure to timely file certifications related to an FCC Form 470, or a failure to comply with minimum processing standards.¹⁹

6. The Commission may waive any provision of its rules on its own motion and for good cause shown.²⁰ A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.²¹ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²² In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.²³

III. DISCUSSION

7. In this item, we consider 196 appeals of decisions denying requests for funding from the schools and libraries universal service support mechanism based on an applicant's failure to timely file an FCC Form 471, a failure to timely file the certifications related to an FCC Form 470, or a failure to comply with minimum processing standards. We consider these three groups of applicants separately below.

8. Generally, the petitioners argue that immaterial clerical, ministerial or procedural errors resulted in rejection of their requests. Some also dispute that an error was made at all. For the reasons discussed below, we waive the relevant Commission rules, and grant all pending appeals pertaining to decisions denying funding due to a failure to comply with minimum processing standards, a failure to timely file an FCC Form 471, or a failure to timely file certifications related to an FCC Form 470, and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the requested services.

9. In many instances here we depart from prior Commission precedent.²⁴ For the reasons described below, however, we find that the departure is warranted and in the public interest. Although we base our decision to grant these requests in part on the fact that many of the rules at issue here are

¹⁸ For purposes of this Order, decisions by both the Schools and Libraries Division and USAC will be collectively referred to as decisions issued by USAC.

¹⁹ See Appendices A-C.

²⁰ 47 C.F.R. §1.3.

²¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

²² *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972).

²³ *Northeast Cellular*, 897 F.2d at 1166.

²⁴ See, e.g., *Request for Review by St. John's School, Schools and Libraries Universal Service Support Mechanism, Order*, 20 FCC Rcd 8171 (2005); *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the national Exchange Carrier Association, Inc., Bruggemeyer Memorial Library, Order*, 14 FCC Rcd 13170 (1999); see also *Naperville Order*, 16 FCC Rcd at 5036-5037, para. 11 (Although the Commission granted Naperville's request for review, it affirmed that "consistent with the Commission's rule requiring applicants to submit a 'completed' FCC Form 471, SLD's minimum processing standards provide an efficient means to minimize unnecessary administrative costs by reducing the number of substantially incomplete applications that SLD must review and process," and concluded that "it is appropriate for SLD to require the information requested by Item 22[in Form 471], and for SLD to return applications that fail to provide this information in any form.").

procedural, such a decision is in the context of the purposes of section 254 and cannot be applied generally to other Commission rules that are procedural in nature. Specifically, section 254 directs the Commission to “enhance . . . access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers and libraries.”²⁵ Because applicants who are eligible for funding will now receive the opportunity for that funding where previously it was denied for minor errors, we believe granting waivers of these rules in these instances, particularly in light of the limited 15-day correction period we impose, will better ensure that universal service support is distributed first to the applicants who are determined by our rules to be most in need, and thus, further the goals of section 254. We caution, however, that even in the context of the schools and libraries program, the waivers here should not be read to mean that applicants will not be required in the future to comply fully with our procedural rules, which are vital to the efficient operation of the E-rate program. To ensure these issues are resolved expeditiously, we direct USAC to complete its review of the applications listed in the Appendices and issue an award or a denial based on a complete review and analysis no later than 60 days from release of this Order.

10. *Applications Denied for Failing to Meet the Minimum Processing Standards.* Sixty-three applicants were denied funding for failing to meet USAC’s minimum processing standards.²⁶ Some of these appeals involved clerical errors on the part of petitioners who inadvertently left portions of the FCC Form 470 or FCC Form 471 blank or made minor errors while completing the form.²⁷ Some petitioners

²⁵ See 47 U.S.C. § 254(h).

²⁶ See Appendix C. We estimate that these 63 appeals involve applications for approximately \$34 million in funding for Funding Years 1999-2005 and note that these funds have already been collected and held in reserve. Also covered in this Order is one application that does not technically involve a minimum processing error. Alexander City Schools discovered it had incorrectly requested a lesser amount of money than it needed. Even though it promptly notified USAC of its error – within nine days – USAC found that because the correction was made after the close of the filing window, USAC could not correct the amount of funding. See Request for Review by Alexander City Schools.

²⁷ Request for Review by Alexander City Schools; Request for Review by Athens City Schools; Request for Review by Bay St. Louis-Waveland School District; Request for Review of Bucksport School Department; Request for Review of Calumet City School District No. 155; Request for Review of Clovis Unified School District; Request for Review and Waiver of Colegio San Antonio; Request for Review of Colton School District #53; Request for Review of Cooperative Educational Service Agency #12; Request for Review of Creighton School District; Request for Review of Elsa Public Library; Request for Review of Emery Unified School District; Request for Review of Fairfax County Public Schools; Request for Review of Forsyth County Public Library; Request for Review of Franklin Lakes School District; Request for Review of French Camp Academy; Request for Review of Henderson County Public Library; Request for Review of Hood River County School District; Request for Review of Incarnation School; Request for Review of Jackson District Library; Request for Review of Lawrence County School District; Request for Review of Leary Independent School District; Request for Review of Mabton School District 120; Request for Review of Marshfield Public Schools; Request for Review of Maumee City School District; Request for Review of McKittrick School District; Request for Review of Memphis City Schools; Request for Review of Mililani-Mauka Elementary School; Request for Review of Northampton Public Schools; Request for Waiver of Radford City Schools; Request for Review of Rangeley Public Library; Request for Review of Richards Independent Schools; Request for Review of Richford High School; Request for Review of Santa Cruz Catholic School; Request for Review of Sevier County Library; Request for Review of St. Joseph the Carpenter Schools; Request for Review of St. Lawrence Catholic School; Request for Review of St. Mary’s Academy; Request for Review of Suffolk Cooperative Library System; Request for Review of Sweetser; Request for Review of Teton County Library; Request for Review and Waiver of Toledo Academy of Learning; Request for Review of Unger Memorial Library; Request for Review of Upper Adams School District; Request for Review of Vidalia City School District; Request for Review of Volusia County Schools; Request for Review of West Genesee Central School District; Petition for Reconsideration of City of Newport News; Application for Review of Des Moines Public Schools; Petition for Reconsideration of King and Queen County Public Schools.

experienced technical problems, either with their own equipment or while interfacing with USAC's electronic filing mechanism, and failed to properly file electronically.²⁸ Other petitioners used outdated USAC forms.²⁹ Some other petitioners claim that the rules and instructions for filing an FCC Form 470 or FCC Form 471 are vague and unclear and that the resulting misunderstandings led to minor mistakes on their applications.³⁰ Finally, others maintain that they did not violate the minimum processing standards at all.³¹

11. Based on the facts and circumstances of these specific cases, we find that good cause exists to waive the minimum processing standards established by USAC. Minimum processing standards are necessary to ensure the efficient review of the thousands of applications requesting funding that USAC receives. In these circumstances, applicants committed minor errors in filling out their application forms. For example, among other problems, applicants inadvertently forgot to fill in a box, had computer problems, used an outdated form that requests primarily the same information as the current one, or misread the instructions. We do not believe that such minor mistakes warrant the complete rejection of each of these applicants' E-rate applications, especially given the requirements of the program and the thousands of applications filed each year.³² Importantly, applicants' errors could not have resulted in an advantage for them in the processing of their application. That is, the applicants' mistakes, if not caught by USAC, could not have resulted in the applicant receiving more funding than it was entitled to. In addition, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that the denial of funding requests inflicts undue hardship on the applicants. In these cases, we find that the applicants have demonstrated that rigid compliance with the application procedures does not further the purposes of section 254(h) or serve the public interest.³³ We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

12. *Applications Denied for Filing Outside the FCC Form 471 Filing Window.* We also have before us for consideration 103 appeals of USAC decisions that denied funding for applications that were filed outside of the FCC Form 471 filing window.³⁴ Some petitioners maintain that they submitted the

²⁸ Request for Review of Burnt Hills-Ballston Lake Central School District; Request for Review of West Sioux Community School District.

²⁹ Request for Review by Perrysburg Exempt Village School; Request for Review by Lawrence County School District; Request for Review by Maumee City School District; Request for Review of Maine School Administrative District No. 36; Request for Review of Moencopi Day School.

³⁰ Request for Review of City of Boston; Request for Review of Department of Neighborhood Development; Request for Review of Tennessee School Boards Association; Application for Review of Paramus School District.

³¹ Request for Review of Biblioteca Electronica de Rio Hondo; Request for Review of Sarah A. Reed Children's Center; Request for Review of South Winneshiek Community School District.

³² The initial application is 14 pages long. See USAC website, Schools and Libraries Universal Service

Description of Services Requested and Certification Form 470, available at <http://www.universalservice.org/res/documents/sl/pdf/470.pdf>.

³³ See 47 U.S.C. § 254(h).

³⁴ See Appendix B. We estimate that these 103 appeals involve applications for approximately \$30 million in funding for Funding Years 1999-2005, and note that these funds have already been collected and held in reserve. In the case of Fairfax School District R3, Minnesota Transition School, Minnewaska Area Schools, Our Lady of The Lake School, and St. Francis of Assisi School, the applicants had not yet submitted their completed FCC Forms 471 before filing their requests for review with the Commission but anticipated that their forms would be filed outside the FCC Form 471 filing window. See Request for Review of Fairfax School District R3; Request for Waiver of

relevant information on time.³⁵ Given that it is difficult to determine in these cases whether the error was the fault of the applicant, USAC or a third party, we give the applicants the benefit of the doubt. We find that a slight delay in USAC's receipt of the applications in each of these cases does not warrant the complete rejection of each of these applicants' E-rate applications. Therefore, we find that good cause exists to waive section 54.507 of the rules for these applications.³⁶

13. The rest of the petitioners assert a waiver is appropriate for one of two reasons: either someone on the applicants' staff made a mistake or had a family emergency that prevented them from filing on time or the delay in the filing or receipt of the application was due to circumstances out of the applicants' control. Specifically, in the first group, some of these appeals involve applicants whose staff members inadvertently failed to file the application forms in a timely manner.³⁷ Another group of petitioners state that they were unable to comply with the filing deadline due to staff illness or relatives of staff members who were ill.³⁸ Other petitioners claim that the rules and instructions for filing an FCC

Minnesota Transition School; Request for Waiver of Minnewaska Area Schools; Request for Waiver of Our Lady of The Lake School; Request for Waiver of St. Francis of Assisi School.

³⁵ Request for Review of Centerville School District 60-1; Request for Appeal of Colonial Intermediate Unit 20; Request for Review of Derby Public Schools; Request for Review of Ferndale Area School District; Request for Review of Kent City Schools; Request for Review of Mel Blount Youth Home; Request for Review of North Panola School District; Request for Review of Oglala Lakota Technology Consortium; Request for Review and Waiver of Perrysburg Exempt Village School District.

³⁶ See 47 C.F.R. § 54.507(c).

³⁷ Request for Waiver of Assabet Valley Regional Vocational School District; Request for Review of Barnwell County School District 45; Request for Review of Bath County School District; Request Waiver of Beavertown Community Library; Request for Review of Brown County School Corporation; Request for Review of Caruthers Unified School District; Request for Review of Central Catholic High School; Application for Review of Chawanakee Joint Elementary School District; Request for Review of Clearwater Memorial Library; Request for Waiver of Clinton County Board of Education; Request for Review of Coahoma County Public Schools; Requests for Review of Consorcio de Escuelas y Bibliotecas; Request for Review and Waiver of CPC Behavioral Healthcare; Request for Review of Delta County School District; Request for Review of Fairfax School District R3; Request for Review of Germantown School District; Request for Waiver of Hawaii State Public Library; Petitioner for Reconsideration of High Bridge Board of Education; Request for Waiver of Holmes District School Board; Request for Review of Hubbard Independent School District; Request for Waiver of Indian Oasis Baboquivari District 40; Request for Waiver of Island Trees Public Library; Request for Waiver of Jefferson School District; Request for Review of Los Alamitos Unified School District; Request for Review of Madera Unified School District; Request for Review of Malone Independent School District; Request for Waiver of McClure Community Library; Request for Waiver of Middleburg Community Library; Request for Waiver of Minnesota Transition School; Request for Waiver of Minnewaska Area Schools; Request for Review of Montfort & Allie B. Jones Memorial Library; Request for Waiver of Mount Ayr Community School District; Request for Waiver of Mount Saint John School; Request for Waiver of Mt. Carroll Township Public Library; Request for Review of Our Lady of Refuge; Request for Waiver of Pinon Dormitory; Request for Waiver of Queen of Apostles Catholic School; Request for Waiver of Richmond Public Library; Request for Review of Rylander Memorial School; Request for Waiver of Selinsgrove Community Library; Petitioner for Reconsideration of Siskiyou County Library; Request for Review of Southeast Delco School District; Request for Review of Southeastern Libraries Cooperating; Request for Review of St. Clement's Regional Catholic School; Request for Review of St. Elizabeth Interparochial School; Request for Waiver of St. Francis of Assisi School; Request for Waiver of SuperNet Consortium; Request for Waiver of Tiverton School Department; Request for Waiver Wabash Valley Educational Center; Request for Review of Wallington Public Schools; Request for Waiver of Walnut Community School District; Request for Waiver of Washington Local School District; Request for Waiver of Westside Holistic Family Services; Request for Review of Whitfield County School District; Request for Waiver of Wilkinson County School District; Request for Review of Wilson Memorial Library.

³⁸ Request for Waiver of Augusta County Library; Request for Review of Bonnie Brae Educational Center School; Request for Review of Garvey School District; Request for Waiver of Gaston County School District; Request for

Form 471 are vague and unclear and that the resulting misunderstandings led to forms being filed after the filing window.³⁹

14. Based on the facts and circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Form 471 found in section 54.507 of the Commission's rules.⁴⁰ Under Bureau precedent deadlines have been strictly enforced for the E-rate program,⁴¹ including those pertaining to the FCC Form 471. We nevertheless find that good cause exists to waive the deadline in these cases. Generally, these applicants claim that staff mistakes or confusion resulted in the late filing of their FCC Form 471s. We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to positions dedicated to pursuing federal grants, especially in small school districts. Even when a school official has learned how to correctly navigate the application process, unexpected illnesses or other family emergencies can result in the only official who knows the process being unavailable to complete the application on time. Given that the violation at issue is procedural, not substantive, we find that the complete rejection of each of these applications is not warranted. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.⁴² We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

15. The second group of petitioners failed to file an FCC Form 471 in a timely manner due to circumstances beyond their control, such as school reorganizations or inclement weather.⁴³ Some petitioners state that technical problems, either with their own equipment or while interfacing with USAC's electronic filing mechanism, prevented the FCC Form 471s from being timely filed.⁴⁴ Other

Waiver Millennium Community School; Request for Waiver of Northwest Institute for Contemporary Learning, Inc.; Request for Waiver of St. Mary's School; Petition for Reconsideration of Neches Independent School District; Request for Waiver of Unadilla Community School.

³⁹ Request for Waiver of Blackwell Public Schools; Request for Waiver of Brooklyn Jesuit Prep; Request for Review of Cecil County Public Schools; Request for Review of Colleton County School District; Request for Review of Jefferson City School District; Request for Review of Laporte School District 306; Request for Waiver of Nativity Mission School; Request for Review of Pierce City School District R6; Request for Waiver of St. Ignatius Academy.

⁴⁰ See 47 C.F.R. § 54.507(c).

⁴¹ See, e.g., *Request for Review by Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 7383, 7389, para. 13 (Wireline Comp. Bur. 2002) (*North Dakota Order*); *Request for Review by Wilmington Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-254818, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 12069, 12071, paras. 7-8 (Wireline Comp. Bur. 2002) (*Wilmington Public Schools Order*); *Request for Review by South Barber Unified School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-158897, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Rcd 18435, 18437-38, para. 7 (Com. Car. Bur. 2001) (*South Barber Order*).

⁴² See 47 U.S.C. § 254(h).

⁴³ Request for Waiver of Design and Engineering Services; Request for Waiver of Nelson County Public Schools; Request for Waiver of Our Lady of the Lake School.

⁴⁴ Request for Waiver of A.C.E. Charter High School; Request for Review of American School for the Deaf; Request for Waiver of Associated Marine Institutes, Inc.; Request for Review of Clinton Public Schools; Request

petitioners claim that they attempted to mail their FCC Form 471s on time but that problems with a third-party carrier prevented the application from arriving in a timely manner.⁴⁵

16. Based on the facts and circumstances of these specific cases, we find that good cause exists to waive the deadline for filing the FCC Form 471 found in section 54.507(c) of the Commission's rules.⁴⁶ Under Bureau precedent, deadlines have been strictly enforced for the E-rate program,⁴⁷ including those pertaining to the FCC Form 471. We nevertheless find that good cause exists to waive the deadline in these cases. Generally, these applicants claim that problems with third parties or circumstances outside their control resulted in the late filing of their FCC Form 471s. We find that, given that the violation at issue is procedural, not substantive, a complete rejection of each of these applications is not warranted, especially given that the error in these cases is not the fault of the applicants. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds or a failure to adhere to core program requirements. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.⁴⁸ We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

17. *Applications Denied for Failing to Certify FCC Form 470.* We also have before us for consideration 29 appeals of USAC decisions that denied funding for applications because their FCC Forms 470 were not certified or not certified before the close of the filing window.⁴⁹ Some of these appeals involve applicants whose staff members inadvertently failed to file the certification before the filing window closed.⁵⁰ Some petitioners state that technical problems, either with their own equipment or while interfacing with USAC's electronic filing mechanism, prevented the FCC Forms 470 from being certified.⁵¹ Other petitioners claim that they attempted to mail their FCC Form 470s certifications but that

for Waiver of Howard County School District; Requests for Waiver of Jemez Mountain School District; Request for Waiver of Leggett Valley Unified School District; Request for Review of Maine School Administrative District #36; Request for Review of Meriwether County School System; Request for Review of North East Independent School District; Request for Review of Saint John Grammar School; Request for Review of Trinity Christian School; Request for Review of Watson School District #56.

⁴⁵ Request for Waiver of Las Vegas City Schools; Request for Review of Loogootee Community School Corporation.

⁴⁶ See 47 C.F.R. § 54.507(c).

⁴⁷ See, e.g., *North Dakota Order*, 17 FCC Rcd at 7389, para. 13; *Wilmington Public Schools Order*, 17 FCC Rcd at 12071, paras. 7-8; *South Barber Order*, 16 FCC Rcd at 18437-38, para. 7.

⁴⁸ See 47 U.S.C. § 254(h).

⁴⁹ We estimate that these 29 appeals involve applications for approximately \$4 million in funding for Funding Years 1999-2005, and note that these funds have already been collected and held in reserve.

⁵⁰ Request for Waiver of Bishop Perry Middle School; Request for Review of Canby School District 891; Request for Review of Candler County Board of Education; Request for Review of Cassopolis Public School; Request for Review of Construction Careers Center; Request for Review of Dunmore School District; Request for Review of Fluvanna County School District; Request for Review of Interstate 35 Community School District; Request for Review of Lydia Bruun Woods Memorial Library; Request for Review of Mabton School District 120; Request for Review of New York State Office of Children & Family Services; Request for Review of Proctor Public Schools; Request for Review of Weld County School District Six.

⁵¹ Request for Review of Fort Atkinson School District; Request for Waiver of Northwestern Local School District; Request for Review of Tewksbury Public Schools; Request for Review of Unified School District 443 Information Technologies Services; Request for Review of Weld County School District Re-3(J).

the FCC Form 470 was either lost by a third-party carrier or USAC.⁵² Still other petitioners maintain that they complied with program rules.⁵³

18. Based on the facts and circumstances of these specific cases, we find that good cause exists to waive the requirement that the certification be filed with FCC Form 470 for these applicants. Our rules require that applicants certify that certain eligibility and program requirements are met.⁵⁴ Specifically, the certifications include attestations that applicants have a current technology plan, if applicable; that they will conduct the competitive bidding process in accordance with Commission rules; that the applicant is an eligible school or library or consortium; that the funding will be used for educational purposes; that the applicant has not received anything of value from the service provider, other than the requested services, in connection with the request for services; that applicants have the necessary resources to use the services purchased effectively; that the signatory has the authority to submit the request on behalf of the applicant; that the applicant has complied with applicable federal, state and local procurement laws and that violations of the rules may result in suspension or debarment from the program.⁵⁵ These certifications on the FCC Form 470 are important to maintain the integrity of the E-rate program and are necessary to ensure that only eligible entities receive support under the program.

19. We find, however, that a missing certification does not constitute a substantive violation, but a procedural one. We emphasize that these applicants still must file the certifications, even though they are late, for their applications to be processed by USAC. The question here is one of timing. USAC denied these applications not because the applicants refused to sign the certification, but because it was not received by USAC by the filing deadline, which meant that the applications were incomplete. Many of the applicants thought they had complied with the requirements, but due to computer error or other third-party errors, the certifications did not reach USAC.

20. While the Bureau has enforced existing filing deadlines for the E-rate program,⁵⁶ we find that good cause exists to waive the procedural deadline in these cases. We find that given that the violation at issue is procedural, not substantive, we find that a complete rejection of each of these applications is not warranted, especially given that the error in these cases is not the fault of the applicants. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds or a failure to adhere to core program requirements revealed by the record in these matters. Furthermore, we find that denial of funding in these cases would inflict undue hardship on the applicants. In these cases, the applicants have demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.⁵⁷ We therefore grant these appeals and remand them to USAC for further processing consistent with this Order.

⁵² Request for Review of Cook County School District 130; Request for Waiver of Creighton Community Public Schools; Request for Review of Gladwin County Library; Request for Review of Tamaroa Public School District #5; Request for Review of Welch Independent School District 17; Request for Review of Yeshiva Ktana of Passaic.

⁵³ Request for Review of Goose Creek Consolidated Independent School District; Request for Review of Morley-Stanwood Community School District; Request for Review of Sibley East Independent School District #2310; Request for Review of Temple Terrace Public Library.

⁵⁴ 47 C.F.R. § 54.504(b).

⁵⁵ *Id.*

⁵⁶ See, e.g., *North Dakota Order*, 17 FCC Rcd at 7389, para. 13; *Wilmington Public Schools Order*, 17 FCC Rcd at 12071, paras. 7-8; *South Barber Order*, 16 FCC Rcd at 18437-38, para. 7.

⁵⁷ See 47 U.S.C. § 254(h).

21. *North Dakota Petition for Reconsideration.* As part of this decision, we also grant a Petition for Reconsideration of an Order filed by the Information Technology Department of the State of North Dakota.⁵⁸ North Dakota mailed its FCC Form 471 certification after the deadline, but asserts that it did not understand when it needed to mail the certification after filing the application electronically.⁵⁹ In *North Dakota*, the Commission rejected North Dakota's arguments that a waiver of its filing requirements was warranted because of, *inter alia*, the complex nature of the application process and the detrimental effect the denial would have on the public schools and libraries in North Dakota.⁶⁰ The Commission stated that "the size and complexity of the application" did not establish good cause to waive the Commission's rules, and reiterated that all applicants are subject to the same filing rules, which are necessary for the program to be administered in an efficient and equitable basis.⁶¹

22. On reconsideration, we find that good cause exists to waive the deadline for filing the FCC Form 471. We now believe that, consistent with our reasoning above, a procedural violation should not have resulted in the rejection in North Dakota's entire application. Contrary to our earlier ruling, we note that our waiver standard allows us to consider hardship when analyzing whether particular facts meet the standard. We find here that denial of funding in this case would inflict undue hardship on the applicant. Notably, at this time, there is no evidence of waste, fraud or abuse, misuse of funds or a failure to adhere to core program requirements. Furthermore, we find that in this case, the applicant has demonstrated that rigid compliance with USAC's application procedures does not further the purposes of section 254(h) or serve the public interest.⁶² For these reasons, we find that a waiver of our filing requirements is warranted, and we grant the Petition for Reconsideration filed by the Information Technology Department of the State of North Dakota.

23. *Additional Processing Directives for USAC.* As of the effective date of this Order, we require USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors on their FCC Form 470 or FCC Form 471, and an additional opportunity to file the required certifications. Specifically, USAC shall inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy those errors. USAC shall also inform applications promptly in writing of any missing or incomplete certifications. Applicants shall have 15 calendar days from the date of receipt of notice in writing by USAC to amend or refile their FCC Form 470, FCC Form 471 or associated certifications.⁶³ USAC shall apply this directive to all pending applications and appeals even if such applications or appeals are no longer within the filing window. The 15-day period is limited enough to ensure that funding decisions are not unreasonably delayed for E-rate applicants and should be sufficient time to

⁵⁸ *Application for Review of a Decision by the Wireline Competition Bureau, Information Technology Department State of North Dakota, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-245592, CC Dockets No. 96-45 and 97-21, Order, 18 FCC Rcd 21521 (2003).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*, 18 FCC Rcd at 21525-27, paras. 12, 17-18.

⁶² See 47 U.S.C. § 254(h).

⁶³ Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with applicants attempting in good faith to amend their applications. This 15-day opportunity to refile or amend applications exists only where applicants have attempted to file their FCC Form 470 and FCC Form 471 within the filing window. If applicants miss the filing window entirely, they would need to file a request for waiver of the deadline with the Commission.

correct truly unintentional ministerial and clerical errors.⁶⁴ The opportunity for applicants to amend their filings to cure minor errors will also improve the efficiency and effectiveness of the Fund. Because applicants who are eligible for funding will now receive funding where previously it was denied for minor errors, we will ensure that funding is distributed first to the applicants who are determined by our rules to be most in need of funding. As a result, universal service support will be received by schools in which it will have the greatest impact for the most students. Furthermore, the opportunity to amend the application will improve the efficiency of the schools and libraries program. If USAC helps applicants file correct and complete applications initially, USAC should be able to reduce the money it spends on administering the fund because fewer appeals will be filed protesting the denial of funding for these types of issues. Therefore, we believe this additional opportunity to cure inadvertent administrative, ministerial, and clerical errors on applications will improve the administration of fund.

24. To complement this effort, USAC shall also develop a more targeted outreach program and educational efforts to inform and enlighten applicants on the various application requirements, including the application and certification deadlines, in an attempt to reduce these types of errors. We expect that the additional outreach and educational efforts will better assist E-rate applicants in meeting the program's requirements. Similarly, USAC shall develop a targeted outreach program designed to identify schools and libraries that have timely posted an FCC Form 470 on USAC's website but have failed to file the associated FCC Form 470 certification. USAC should also notify applicants that have filed an FCC Form 470, but have failed to file an FCC Form 471 or its certification by the close of the filing window. We believe such an outreach program will increase awareness of the filing rules and procedures and will assist applicants in filing complete and correct application. As we noted above, we believe that these changes will improve the overall efficacy of the program.

25. In addition, we note that, in the *Comprehensive Review NPRM*, we started a proceeding to address the concerns raised herein by, among other things, improving the application and disbursement process for the schools and libraries support mechanism.⁶⁵ Although we expect that the additional direction we have provided in this Order will help ensure that eligible schools and libraries can more effectively navigate the application procedures, this action does not obviate the need to take steps to reform and improve the program based on the record in the *Comprehensive Review* proceeding.

26. We emphasize the limited nature of this decision. As stated above, we recognize that filing deadlines and minimum processing standards are necessary for the efficient administration of the E-rate program. Although we grant the 196 subject appeals before us, our action here does not eliminate the minimum processing standards, or the deadlines for filing the FCC Form 470 and FCC Form 471, or certifications to the FCC Form 470 or 471. We continue to require E-rate applicants to submit complete and accurate information to USAC as part of the application review process. The direction we provide USAC will not lessen or preclude any application review procedures of USAC. All existing E-rate program rules and requirements will continue to apply, including USAC's minimum processing standards, the existing forms and documentation with the associated certifications, USAC's Program Integrity Assurance review procedures, and other processes designed to ensure applicants meet the applicable program requirements.

27. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, we reserve the right to conduct audits and investigations to determine compliance

⁶⁴ We note that applicants will retain the ability to appeal decisions denying funding requests on the grounds discussed herein.

⁶⁵ *Comprehensive Review NPRM*.

with the E-rate program rules and requirements. Because audits and investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or the Commission's rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under our own procedures and in cooperation with law enforcement agencies.

IV. ORDERING CLAUSES

28. ACCORDINGLY, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the Requests for Review and Requests for Waiver of 47 C.F.R. §§ 54.507(c) and 54.504(b) filed by the petitioners as listed in Appendices A-C ARE GRANTED.

29. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the Requests for Review and/or Requests for Waiver filed by the petitioners as listed in Appendices A-C ARE REMANDED to USAC for further consideration in accordance with the terms of this Order.

30. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the Petition for Reconsideration filed by the Information Technology Department of the State of North Dakota IS GRANTED and IS REMANDED to USAC for further consideration in accordance with the terms of this Order.

31. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, USAC SHALL COMPLETE its review of each remanded application listed in the Appendices and issue an award or a denial based on a complete review and analysis no later than 60 days from release of this Order.

32. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

KLAMATH FALLS CITY SCHOOLS
BEN 145061
471 # 575579, FRN 1591691
Letter of Appeal
Federal Communications Commission
March 6, 2008

NOTE 7 - Alpaugh_3-28-07

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Requests for Review of the Decision of the)	
Universal Service Administrator by)	
)	
Alpaugh Unified School District,)	File Nos. SLD-523576, <i>et al.</i>
Alpaugh, CA, <i>et al.</i>)	
)	
Schools and Libraries Universal Service Support)	CC Docket No. 02-6
Mechanism)	
)	

ORDER

Adopted: March 22, 2007

Released: March 28, 2007

By the Commission: Commissioner McDowell issuing a statement.

1. In this Order, we grant 78 appeals of decisions by the Universal Service Administrative Company (USAC) reducing or denying funding from the schools and libraries universal service support mechanism (also known as the E-rate program) on the grounds that applicants failed to respond to USAC's requests for information within the USAC-specified time frame.¹ As explained below, in each case we find good cause to grant the appeals and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix and issue an award or denial based upon a complete review and analysis no later than 120 days from the release of this Order. In addition, we direct USAC to develop outreach procedures designed to better inform applicants of the additional information that may be needed and to provide applicants with a 15-day opportunity to respond to such request.

2. *Background.* Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.² USAC examines applications for discounted services to ensure that only eligible services are funded, and such scrutiny may result in requests by USAC for additional information from applicants. Absent the applicant providing such additional information, USAC may deny the application for failure to demonstrate that the services in question are eligible for support.

3. Given the volume of applications and other submissions that USAC processes and reviews each year, it is necessary for USAC to establish measures to ensure prompt resolution of applications. One such measure in place is an administrative procedure permitting USAC to request additional

¹ The list of Petitioners is attached in the Appendix. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

² 47 C.F.R. §§ 54.501-54.503.

information from applicants.³ USAC requires that a response to all of its requests for additional or clarifying information or documentation be made within seven days of the applicant being contacted, unless the deadline is explicitly extended by USAC.⁴ If this deadline is not met, or the response provided is incomplete, USAC makes a funding determination based on the information it has in its possession.

4. *Discussion.* In this Order, we grant 78 appeals of decisions reducing or denying requests for funding from the E-rate program and remand the underlying applications associated with these appeals to USAC for further action consistent with this Order.⁵ Petitioners' requests for funding were denied or reduced because applicants failed to respond to USAC's requests for information within the specified time frame. Petitioners generally argue that they did not actually receive the requests from USAC for additional information,⁶ that they submitted the requested information to USAC,⁷ that they requested a

³ See *Request for Review by Boone County School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. USAC-220067, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22467, 22469, para. 5 (Wireline Comp. Bur. 2002) (Boone County Order); *Request for Review by Henryetta Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. USAC-268075, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 17423, 17424, para. 3 (Wireline Comp. Bur. 2002).

⁴ See SLD website, www.sl.universalservice.org/reference/deadline.asp, (visited December 11, 2006), see also *Request for Review by Marshall County School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. USAC-220105, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 4520, 4522, para. 6 (Wireline Comp. Bur. 2003).

⁵ See Appendix.

⁶ See Request for Review by Alice Ward Memorial Library; Request for Review by Bais Yaakov High School of Chicago; Request for Review by Canon City Schools; Request for Review by Cleora Public School; Request for Review by Cotulla Independent School District; Request for Review by Diboll Independent School District; Request for Review by Evangelical Children's Home; Request for Review by Fairfax School District; Request for Review by Fairland Public Schools; Request for Review by Glassboro Public School District; Request for Review by Grass Lake Community School District; Request for Review by Lubavitch Yeshiva of Minnesota-Wexler Learning Institute; Request for Review by Marvin L. Winans Academy of Performing Arts; Request for Review by Pleasantville School District; Request for Review by Toras Imecha; Request for Review by Vicksburg Warren School District; and Request for Review by Yeshiva Beth Yitzchok D'Spinka.

⁷ See Request for Review by Beaver Area School District; Request for Review by Berrien County Schools; Request for Review by Boone County School District; Request for Review by Brewster Central School District; Request for Review by Charleston County School District; Request for Review by Cherry Creek Schools; Request for Review by Colegio Dr. Roque Diaz; Request for Review by Delta-Schoolcraft Intermediate School District; Request for Review by Devereux Foundation; Request for Review by DINE Southwest High School; Request for Review by District of Columbia Public Schools; Request for Review by East Cleveland School District; Request for Review by Eastern Upper Peninsula Independent School District; Request for Review by East Orange Community Charter School; Request for Review by Educational Institute Oholei Torah; Request for Review by Florence City School District; Request for Review by Franklin Township School District; Request for Review by Greater Johnstown AVTS; Request for Review by Jennings County Schools; Request for Review by Lake Erie Educational Computer Association; Request for Review by Leominster Public Schools; Request for Review by Long Valley Charter School; Request for Review by Lynd Public School; Request for Review by Madison-Oneida Board of Cooperative Educational Services; Request for Review by Madison-Plains Local School District; Request for Review by The Mesorah School; Request for Review by The Mill School; Request for Review by Milltown School District; Request for Review by Montezuma-Cortez School District RE-1; Request for Review by Oak Hills Local School District; Request for Review by Oakland Unified School District; Request for Review by Petersburg Independent School District; Request for Review by Point Pleasant Schools; Request for Review by Rylie Family Faith Academy Consortium; Request for Review by Silo Public Schools; Request for Review by St. John's County School District; Request for Review by Saint Martin de Porres Church; Request for Review by Taft School District; Request for Review by Wellsville Local School District; Request for Review by Winn Parish School District; and Request for Review by Youthbuild Albuquerque.

deferral over the summer,⁸ or that a staffing problem prevented them from submitting the requested information.⁹

5. Balancing the facts and the circumstances of these specific cases as described below, we find that good cause exists to grant these appeals and remand them back to USAC for further processing. Importantly, these appeals involved a procedural error on the part of the Petitioners, not a failure to adhere to a core program requirement or a misuse of funds. As the Commission has noted previously, given that any violations that occurred were procedural, not substantive, we find that the complete rejection of these applications is not warranted.¹⁰ Furthermore, these appeals involved a processing deadline, not a program rule. Although deadlines are necessary for the efficient administration of the program, in these cases, the applicants have demonstrated that rigid adherence to such procedures does not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.¹¹ We also note that grant of these appeals should have a minimal impact on the Universal Service Fund because the monies needed to fund the underlying applications, should they all be fully funded, have already been collected and held in reserve.¹² We therefore find that good cause exists to grant and remand these appeals. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services. To ensure these issues are resolved expeditiously, we direct USAC to complete its review of the applications listed in the Appendix and issue an award or a denial based on a complete review and analysis no later than 120 calendar days from release of this Order.

6. We emphasize the limited nature of this decision. As stated above, we recognize that filing deadlines are necessary for the efficient administration of the schools and libraries E-rate program. Although we grant the subject appeals before us, our action here does not eliminate USAC's deadlines for processing applications.¹³ In addition, this decision is not intended to reduce or eliminate any application review procedures or lessen the program requirements that applicants must comply with to receive funding. We continue to require E-rate applicants to submit, complete and accurate information to USAC

⁸ See Request for Review by Bethlehem Area School District; Request for Review by De Soto Unified School District 232; and Request for Review by University Academy.

⁹ See Request for Review by Alpaugh Unified School District; Request for Review by Crockett Independent School District; Request for Review by Cypress Heights Academy; Request for Review by Griffin Foundation Inc.; Request for Review by Jessamine County Schools; Request for Review by Oberlin Unified School District No. 294; Request for Review by Pelham City Public Schools; Request for Review by Perry Unified School District 343; and Request for Review by Scranton School District.

¹⁰ *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, *et al.*, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5319, para. 9 (rel. May 19, 2006) (*Bishop Perry Middle School*).

¹¹ 47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

¹² We estimate that the appeals granted in this Order involve applications for approximately \$45 million in funding for Funding Years 2000-2006. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2007 (dated Jan. 31, 2007).

¹³ We note that the Commission has initiated a proceeding to address whether particular deadlines should be modified. *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 05-124, para. 29 (2005) (*Comprehensive Review NPRM*).

in a timely fashion as part of the application review process. However, beginning with applications for funding year 2007, we require USAC in each instance to detail in writing and with specificity to the applicant any information or documentation USAC is seeking. In addition, USAC shall permit applicants to provide the information to USAC within 15 calendar days from the date of receipt of the written notice from USAC that additional information is required.¹⁴

7. Finally, we are committed to guarding against waste, fraud, and abuse, and to ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits or investigations to determine compliance with the E-rate program rules or requirements. Because audits and investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or Commission rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or the Commission's rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal process. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under the Commission's procedures and in cooperation with law enforcement agencies.

8. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, the Requests for Review as listed the Appendix ARE GRANTED and REMANDED to USAC for further consideration in accordance with the terms of this Order.

9. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, USAC SHALL COMPLETE its review of each remanded application listed in the Appendix and SHALL ISSUE an award or a denial of each application based on a complete review and analysis no later than 120 calendar days from release of this Order.

10. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release, in accordance with section 1.103 of the Commission's rules, 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁴ Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC shall continue, however, to work beyond the 15 days with applicants attempting in good faith to submit the necessary documentation.

APPENDIX

Applicant	Application Number	Funding Year
Alpaugh Unified School District Alpaugh, CA	523576	2006
Alice Ward Memorial Library Canaan, VT	487811	2005
Bais Yaakov High School of Chicago Chicago, IL	234381	2001
Beaver Area School District Beaver, PA	526862	2006
Berrien County School District Nashville, GA	426240	2004
Bethlehem Area School District Bethlehem, PA	532028, 532117, 534228, 534843, 534980, 535090	2006
Bethlehem Area School District Bethlehem, PA	533726, 533860, 533981, 534601, 534316	2006
Bethlehem Area School District Bethlehem PA	534078	2006
Boone County School District Madison, WV	338632	2003
Brewster Central School District Brewster, NY	398144	2004
Canon City School District RE-1 Canon City, CO	422001	2004
Charleston County School District Charleston, SC	399988, 400066, 400095, 400135, 400148, 400166, 400185, 400199, 420054, 420158, 420266, 421719, 421919, 423536, 424838, 429071	2004
Cherry Creek School District 5 Englewood, CO	226427	2001
Cleora Public School Afton, OK	466824	2005
Colegio Dr. Roque Diaz Yabucoa, PR	414245	2004
Cotulla Independent School District Cotulla, TX	320087	2002

Crockett Independent School District Crockett, TX	504311, 506302, 524164, 524195, 527805, 527831, 527849, 527885, 527903, 530689, 532849	2006
Cypress Heights Academy Baton Rouge, LA	533588, 537630, 537700	2006
Delta-Schoolcraft Intermediate School District	538357	2006
De Soto Unified School District 232 De Soto, KS	476682	2005
Devereux Foundation King of Prussia, PA	538789	2006
Diboll Independent School District Diboll, TX	430473	2004
DINE Southwest High School Winslow, AZ	398842	2004
District of Columbia Public Schools Washington, DC	393708	2004
East Cleveland School District, East Cleveland, OH	4233380, 423397	2004
Eastern Upper Peninsula Independent School District Sault St. Marie, MI	471037, 469866	2005
East Orange Community Charter School East Orange, NJ	415781	2004
Educational Institute Oholei Torah Brooklyn, NY	382666	2003
Evangelical Children's Home St. Louis, MO	392392	2004
Fairfax School District Bakersfield, CA	477012	2005
Fairfax School District Bakersfield, CA	478082	2005
Fairfax School District Bakersfield, CA	478152	2005
Fairland Public Schools Fairland, OK	463624	2005
Fairland Public Schools Fairland, OK	466913	2005
Florence City School District Florence, AL	464775	2005
Franklin Township School District Somerset, NJ	474034	2005

Glassboro Public School District Glassboro, NJ	487609	2005
Grass Lake Community School District Tecumseh, MI	514283	2006
Greater Johnstown AVTS Johnstown, PA	533504	2006
Griffin Foundation Inc. Tucson, AZ	486140	2005
Jennings County Schools North Vernon, IN	522029	2005
Jessamine County Schools Nicholasville, KY	498994	2005
Lake Erie Educational Computer Association Elyria, OH	387075	2004
Leominster Public Schools Leominster, MA	372922	2003
Long Valley Charter School Doyle, CA	410086	2004
Lubavitch Yeshiva of Minnesota-Wexler Learning Institute St. Paul, MN	266085	2001
Lynd Public School Lynd, MN	393043	2004
Madison-Oneida Board of Cooperative Educational Services Verona, NY	312009	2002
Madison-Plains Local School District London, OH	524383	2005
Marvin L. Winans Academy of Performing Arts Detroit, MI	500983	2006
Milltown School District Monsey, NY	470851	2005
Montezuma-Cortez School District RE-1 Cortez, CO	414192	2004
Oak Hills Local School District Cincinnati, OH	463594	2005
Oakland Unified School District Novato, CA	263553	2001
Oakland Unified School District	327574, 327579, 327586	2002

Oakland, CA		
Oberlin Unified School District No. 294 Oberlin, KS	460015	2005
Pelham City Public Schools Pelham, GA	362302	2003
Perry Unified School District 343 Perry, KS	532787	2006
Petersburg Independent School District Petersburg, TX	446593	2005
Pleasantville School District Broomall, PA	484579, 485093, 485464	2005
Point Pleasant Schools Point Pleasant, NJ	457647	2005
Rylie Family Faith Academy Consortium Dallas, TX	425796	2004
Saint Martin de Porres Church Philadelphia, PA	359750	2003
Scranton School District Scranton, PA	530269	2006
Silo Public Schools Allen, OK	443976	2005
St. Johns County District St. Augustine, FL	409719, 411916	2004
St. Johns County School District St. Augustine, FL	409805	2004
Taft School District Lockport, IL	501995	2006
The Mesorah School Brooklyn, NY	382513	2003
The Mill School Baltimore, MD	354229	2003
Toras Imecha Lakewood, NJ	404918, 421609	2004
University Academy Lawrence, KS	486799, 486829	2005
Vicksburg Warren School District Vicksburg, MS	265505	2001
Wellsville Local School District Wellsville, OH	512851	2006
Winn Parish School District Winnfield, LA	427753	2004
Yeshiva Beth Yitzchok D'Spinka	262909	2001

Brooklyn, NY		
Youthbuild Albuquerque Philadelphia, PA	524250	2006
Youthbuild Albuquerque Philadelphia, PA	524253	2006

**STATEMENT
COMMISSIONER ROBERT M. McDOWELL**

*Re: Requests for Waiver of the Decision of the Universal Service Administrator by
Adams County School District 14, Commerce City, CO, et al., and
Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6*

*Re: Requests for Review of the Decision of the Universal Service Administrator by
Alpaugh Unified School District, Alpaugh, CA, et al., and
Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6*

*Re: Requests for Review or Waiver of the Decision of the
Universal Service Administrator by
Brownsville Independent School District, Brownsville, TX, et al., and
Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6*

By adopting these three orders, we are granting 182 appeals of decisions taken by the Universal Service Administrative Company (USAC) that reduced or denied funding by applicants of the schools and libraries universal service mechanism. This program promotes the noble goal of assisting schools and libraries in the United States to obtain affordable telecommunications and Internet access. I support these decisions for several reasons. First, each of these appeals involves technicalities in the USAC procedures. Our actions here do not substantively alter the eligibility of the Schools and Libraries program. Furthermore, we find no indication of any intention to defraud the system on the part of any of these applicants. Also, our decisions and USAC's actions on appeal should have minimal effect on the level of the Universal Service Fund, because USAC has already reserved sufficient funds to take into account pending appeals. Finally, I am pleased that we impose reasonable time limits on USAC to address these cases on appeal so they can be resolved expeditiously.

KLAMATH FALLS CITY SCHOOLS
BEN 145061
471 # 575579, FRN 1591691
Letter of Appeal
Federal Communications Commission
March 6, 2008

NOTE 8 - Aberdeen_5-8-07

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Application for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Aberdeen School District)	File No. SLD-297249, <i>et al.</i>
Aberdeen, WA, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: April 18, 2007

Released: May 8, 2007

By the Commission:

I. INTRODUCTION

1. In this Order, we grant 62 appeals and deny one appeal of decisions by the Universal Service Administrative Company (USAC) concerning applications for discounted services under the schools and libraries universal service mechanism (also known as the E-rate program).¹ As explained below, we find that, for 34 applicants that made ministerial or clerical errors on forms that were timely submitted, good cause exists to waive section 54.504(c) of the Commission's rules, which requires applicants to submit a completed FCC Form 471 to USAC.² We also find that, for 28 applicants, good cause exists to waive section 54.504(b)(4) of the Commission's rules, which states that applicants must wait 28 days after their FCC Form 470 is posted to USAC's website or after public availability of an applicant's request for proposal (RFP) before entering into an agreement with a service provider for the requested services.³ Lastly, for one applicant, we deny the appeal for failing to comply with the Commission's competitive bidding rules.⁴

2. Accordingly, we remand the underlying applications associated with the granted appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix

¹ In this Order, we use the term "appeals" to generically refer to requests for review of decisions, or waivers related to such decisions, issued by the Commission, the Wireline Competition Bureau, or USAC. A list of these petitions is attached in the Appendix and we will refer to all of these parties as Petitioners. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company may seek review from the Commission. 47 C.F.R. § 54.719(c).

² 47 C.F.R. § 54.504(c); *see infra* paras. 6-7.

³ 47 C.F.R. § 54.504(b)(4); *see infra* paras. 8-9.

⁴ *See infra* para. 10.

and issue an award or denial based upon a complete review and analysis no later than 120 days from the release of this Order. In addition, starting in Funding Year 2007,⁵ we direct USAC to provide applicants with a 15-day opportunity to cure any ministerial or clerical errors on their FCC Form 471 that make it appear that the applicants violated the 28-day rule.⁶

3. As the Commission recently noted, many E-rate program beneficiaries, particularly small entities, contend that the application process is complicated, resulting in a number of applications for E-rate support being denied for ministerial or clerical errors.⁷ We find that the actions we take here to provide relief will promote the statutory requirements of section 254(h) of the Communications Act of 1934, as amended (the “Act”), by helping to ensure that eligible schools and libraries obtain access to discounted telecommunications and information services.⁸ Moreover, we believe that none of the waivers of sections 54.504(b)(4) and (c) granted here will frustrate the overarching purpose of the 28-day competitive bidding process, which is intended to ensure a fair opportunity for service providers to bid on the services sought by applicants.⁹

II. BACKGROUND

4. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.¹⁰ The Commission’s rules provide that each funding year, with one limited exception for existing, binding contracts, an eligible school, library, or consortium that includes eligible schools or libraries must seek competitive bids for all services eligible for support.¹¹ In accordance with the Commission’s rules, an applicant must file with USAC, for posting to USAC’s website, an FCC Form 470 requesting discounted services.¹² The applicant must wait 28 days after the FCC Form 470 is posted

⁵ USAC shall also apply this 15-day opportunity to applications with these types of appeals currently before USAC.

⁶ See *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File No. SLD-487170, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5326-27, para. 23 (2006) (*Bishop Perry Order*). We recognize that USAC cannot always identify these types of errors simply by looking at the FCC Form 471. In those cases, applicants will have 15 days from receiving the denial of their application to demonstrate that it was a ministerial or clerical error that gave the appearance that the applicant violated the 28-day rule.

⁷ See *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, Federal-State Joint Board on Universal Service, Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Linkup, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, 97-21, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308 (2005) (*Comprehensive Review NPRM*); *Bishop Perry Order*, 21 FCC Rcd at 5316, para. 2.

⁸ 47 U.S.C. § 254(h). The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, amended the Communications Act of 1934.

⁹ See 47 C.F.R. §§ 54.504 (b)(4) and (c); see, e.g., *Request for Review of the Decision of the Universal Service Administrator by Currituck County Schools, Federal-State Joint Board on Universal Service*, File No. SLD-111040, CC Docket No. 96-45, Order, 15 FCC Rcd 5564, 5566, para. 6 (Com. Car. Bur. 2000) (*Currituck County Schools Order*).

¹⁰ 47 C.F.R. §§ 54.501-54.503.

¹¹ 47 C.F.R. §§ 54.504, 54.511(c).

¹² 47 C.F.R. § 54.504(b); see also *Schools and Libraries Universal Service, Description of Services Requested and Certification Form*, OMB 3060-0806 (September 1999) (Funding Years 2000, 2001, 2002 FCC Form 470); *Schools and Libraries Universal Service, Description of Services Requested and Certification Form*, OMB 3060- (continued . . .)

to the USAC website or after public availability of an applicant's RFP, whichever is later, before entering into an agreement with a service provider for the requested services.¹³ Once the school or library has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, it must file an FCC Form 471 application to notify USAC of the services that have been ordered, the service providers with which the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.¹⁴ An applicant can enter into multi-year contracts or contracts with voluntary extensions without reposting an FCC Form 470 application and complying with the 28-day rule each year as long as the applicant indicated such intent in Item 13 on its FCC Form 470 or in its RFP.¹⁵

III. DISCUSSION

5. In this item, we grant 62 appeals and deny one appeal of decisions by USAC denying requests for funding under the E-rate program due to an applicant's failure to comply with the Commission's 28-day competitive bidding requirement.¹⁶ The E-rate program's competitive bidding requirements ensure more efficient pricing for telecommunications and information services purchased by schools and libraries by minimizing the amount of support needed. Specifically, "the 28-day posting rule

(Continued from previous page)

0806 (April 2002) (Funding Year 2003 FCC Form 470); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (May 2003) (Funding Year 2004 FCC Form 470); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (October 2004) (Funding Year 2005 FCC Form 470) (collectively, FCC Form 470).

¹³ 47 C.F.R. § 54.504(b)(4); *see* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 1997) (Funding Year 1999 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (Funding Year 2000 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (Funding Year 2001 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2001) (Funding Year 2002 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2003) (Funding Year 2004 FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (Funding Year 2005 FCC Form 471) (collectively, FCC Form 471).

¹⁴ 47 C.F.R. § 54.504(c). *See* FCC Form 471. The Commission's rules do provide a limited exemption from the 28-day competitive bidding requirement when applicants had "existing contracts" signed before January 30, 1998. *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Tenth Order on Reconsideration, 14 FCC Rcd 5983, 5986, para. 6 (1999); *see also* 47 C.F.R. § 54.511(c)(1). None of the Petitioners argue that this exemption applies to their case.

¹⁵ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 15 FCC Rcd 6732, 6736, para. 10-12 (1999); *see* USAC website, Contract guidance, at <http://www.universalservice.org/sl/applicants/step04/contract-guidance.aspx> (retrieved March 5, 2007). A contract including voluntary extensions means that the contract expires at the end of its original term and may be voluntarily extended for one or more years pursuant to the provisions in the contract. *Id.*

¹⁶ The Commission may waive any provision of its rules on its own motion and for good cause shown. 47 C.F.R. § 1.3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972). In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166.

is intended to provide a fair and uniform period applicable to all schools and libraries seeking discounts for eligible services to permit competitive bidding by all potential bidders.”¹⁷ Generally, Petitioners’ argue either that they made clerical or ministerial errors on the FCC Form 471¹⁸ or that they misunderstood our rules, which resulted in a denial of their requests for E-rate funding.¹⁹ For the reasons discussed below, we waive sections 54.504(b) or (c) of our rules, as applicable, and grant these appeals.²⁰ The Commission also notes that the grant of these appeals should have minimal effect on the Universal Service Fund.²¹ With regard to one appeal, we deny for failing to comply with the Commission’s competitive bidding rules.²² Therefore, we remand the underlying applications associated with these

¹⁷ See *Currituck County Schools Order*, 15 FCC Rcd at 5566, para. 6.

¹⁸ See Application for Review of Aberdeen School District; Request for Review of Abilene Free Public Library; Petition for Reconsideration of Albany Public Library; Request for Review of Augusta County School District; Request for Review of Bank Street School for Children; Request for Review of Bath School Department; Request for Review of Bethlehem Area Public Library; Request for Review of B.F. Jones Memorial Library Aliquippa District Library Center; Request for Review of Calumet City Public Library; Request for Review of Chippewa Hills School District; Request for Review of Chowchilla Union High School District; Request for Review and/or Waiver of Cumberland County School District; Request for Review of David Douglas School District 40; Request for Review of Hydaburg City School; Request for Review of Jackson-Hinds Library System; Request for Review of Johnson Elementary School; Request for Review of Kennewick School District; Request for Review of Madawaska School District; Request for Review of Maine School Administration District No. 9; Request for Waiver of Marvin L. Winans Academy of Performing Arts; Request for Review of Milton School District; Request for Review of Modesto City Schools; Request for Review of Nelson Public School District; Request for Review of Norborne R-VIII School District; Request for Review of Onondaga-Cortland Madison BOCES; Request for Review of Princeton R-5 School; Request for Review of Prosser School District No. 116; Request for Review of Rapides Parish Library; Request for Review of Richland School District; Request for Review of Sycamore Community Schools; Request for Review and/or Waiver of Waverly City Schools; Request for Review of Western Ohio Computer Organization; Request for Review of White Settlement Independent School District; Request for Review of Willits Charter School.

¹⁹ See Request for Review of Anchorage School District; Request for Review of Atlantic County Library System; Request for Review of Butternut School District; Request for Review of Clark Township School District; Request for Review of Columbia Union School District; Request for Waiver of Cooperative Educational Service Agency No. 7; Request for Review of Ewing Public Schools; Request for Review of Graham Independent School District; Request for Review of Islesboro School District; Request for Review of Los Angeles Unified School District; Request for Waiver of Mason Public School District; Request for Review of Miles City Unified School District; Request for Waiver of Nottingham School; Request for Review of Swampscott Public Schools; Request for Waiver of Bedford Public Schools; Application for Review of Custer County School District; Request for Review of Manton JT Union Elementary School District; Request for Waiver of Philadelphia-Montgomery Christian Academy; Request for Review of Brunswick County Schools; Request for Review of Dallas County School District 1; Request for Review of Danville City School District; Request for Review of Helena Public School District No. 1; Request for Review of Howell Township Public Schools; Request for Review of Latch School Inc.; Request for Review of North Scott Community School District; Request for Review of The School District of Palm Beach County; Request for Review of United School District. One request for waiver, filed on behalf of Reform Public Library (Reform), was submitted by USAC. USAC acknowledged that it significantly delayed posting Reform’s FCC Form 470 to its website. Due to this delay, Reform violated the 28-day rule in order to file its FCC Form 471 before the filing window closed. See Request for Waiver of Reform Public Library.

²⁰ See 47 C.F.R. §§ 54.504(b)(4) and (c).

²¹ We estimate that the appeals granted in this Order involve applications for approximately \$15.2 million in funding for Funding Years 1999-2005. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2007 (Jan. 31, 2007). Thus, we determine that the action we take today should have minimal impact on the Universal Service Fund as a whole.

²² See *infra* para. 10.

appeals to USAC for further action consistent with this Order. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each application listed in the Appendix and issue an award or denial based upon a complete review and analysis no later than 120 days from the release of this Order. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the requested services.²³

6. *Section 54.504(c) Waivers.* According to their denial letters from USAC, these Petitioners' requests for E-rate funding were denied because their contracts for discounted services were signed prior to the 28-day waiting period computed from the date of the posting of the FCC Form 470 on the USAC website. These Petitioners' denials, however, can be more accurately described as failing to comply with the requirement of section 54.504(c) of our rules, which requires applicants to submit a completed FCC Form 471 to USAC.²⁴ That is, while the applicants filed their FCC Forms 471 on time, they need a waiver to make a correction after the deadline. Specifically, these appeals involved clerical errors on the part of the Petitioners; they inserted the wrong contract date, the wrong classification of service, or the wrong FCC Form 470 application number on the FCC Form 471, thus making it appear that the applicants violated the 28-day rule.²⁵

7. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive section 54.504(c) of our rules.²⁶ In these circumstances, applicants committed minor errors in filling out their application forms. As the Commission recently noted, we do not believe that such minor mistakes warrant the complete rejection of each of these applicants' E-rate applications.²⁷ Our finding is consistent with our ruling in the *Bishop Perry Order* in which the Commission waived section 54.504(c) of our rules in situations where applicants' ministerial or clerical errors caused USAC to find that the applications were not complete and thus not filed within the filing window.²⁸ Importantly, like those appeals granted in the *Bishop Perry Order*, applicants' errors here could not have resulted in an

²³ Nothing in this order is intended to authorize or require payment of any claim that has previously been released by a service provider or applicant, including in a civil settlement or criminal plea agreement with the United States.

²⁴ See 47 C.F.R. § 54.504(c).

²⁵ See Application for Review of Aberdeen School District; Request for Review of Abilene Free Public Library; Petition for Reconsideration of Albany Public Library; Request for Review of Augusta County School District; Request for Review of Bank Street School for Children; Request for Review of Bath School Department; Request for Review of Bethlehem Area Public Library; Request for Review of B.F. Jones Memorial Library Aliquippa District Library Center; Request for Review of Calumet City Public Library; Request for Review of Chippewa Hills School District; Request for Review of Chowchilla Union High School District; Request for Review and/or Waiver of Cumberland County School District; Request for Review of David Douglas School District 40; Request for Review of Hydaburg City School; Request for Review of Jackson-Hinds Library System; Request for Review of Johnson Elementary School; Request for Review of Kennewick School District; Request for Review of Madawaska School District; Request for Review of Maine School Administration District No. 9; Request for Waiver of Marvin L. Winans Academy of Performing Arts; Request for Review of Milton School District; Request for Review of Modesto City Schools; Request for Review of Nelson Public School District; Request for Review of Norborne R-VIII School District; Request for Review of Onondaga-Cortland Madison BOCES; Request for Review of Princeton R-5 School; Request for Review of Prosser School District No. 116; Request for Review of Rapides Parish Library; Request for Review of Richland School District; Request for Review of Sycamore Community Schools; Request for Review and/or Waiver of Waverly City Schools; Request for Review of Western Ohio Computer Organization; Request for Review of White Settlement Independent School District; Request for Review of Willits Charter School.

²⁶ 47 C.F.R. § 54.504(c).

²⁷ *Bishop Perry Order*, 21 FCC Rcd at 5321, para. 11.

²⁸ *Id.* at paras. 10-11.

advantage for them in the processing of their application.²⁹ As such, the applicants' mistakes, if not caught by USAC, could not have resulted in the applicants receiving more funding than they were entitled to. Moreover, the Commission found in the *Bishop Perry Order* that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the Act – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.³⁰ Thus, we find that good cause exists to waive section 54.504(c) of our rules for these applicants.³¹ Accordingly, we grant and remand these appeals to USAC for further processing consistent with this Order.

8. Section 54.504(b) Waivers. A number of Petitioners mistakenly signed their contracts or certified their FCC Forms 471 before the allowable contract date.³² Other Petitioners filed an FCC Form 471 before the allowable contract date because there was only one service provider in the area that could provide the needed services and, therefore, Petitioners mistakenly believed they did not have to wait 28 days before submitting an FCC Form 471.³³ Other Petitioners did not indicate they were posting for a multi-year contract or a contract with a voluntary renewal provision when they originally posted the FCC Form 470.³⁴ Finally, we find that two Petitioners complied with the Commission's rules and grant their requests for review.³⁵

9. Based on the facts and the circumstances of these specific cases, we find that good cause exists to waive section 54.504(b)(4) of the Commission's rules, which requires applicants to wait 28 days after posting an FCC Form 470 to USAC's website before entering into an agreement with a service provider for the requested services.³⁶ We find that Petitioners' errors related to the competitive bidding process do not warrant a complete rejection of their applications. We have examined the facts of each of

²⁹ *Id.* at para. 11.

³⁰ *See id.* at paras. 2, 9.

³¹ 47 C.F.R. § 54.504(c).

³² *See* Request for Review of Atlantic County Library System; Request for Review of Butternut School District; Request for Review of Clark Township School District; Request for Waiver of Cooperative Educational Service Agency No. 7; Request for Review of Dallas County School District 1; Request for Review of Ewing Public Schools; Request for Review of Graham Independent School District; Request for Review of Islesboro School District; Request for Review of Los Angeles Unified School District; Request for Waiver of Mason Public School District; Request for Review of Miles City Unified School District; Request for Waiver of Nottingham School; Request for Review of Swampscott Public Schools.

³³ *See* Request for Waiver of Bedford Public Schools; Application for Review of Custer County School District; Request for Review of Manton JT Union Elementary School District; Request for Waiver of Philadelphia-Montgomery Christian Academy.

³⁴ *See* Request for Review of Anchorage School District; Request for Review of Brunswick County Schools; Request for Review of Columbia Union School District; Request for Review of Danville City School District; Request for Review of Helena Public School District No. 1; Request for Review of Howell Township Public Schools; Request for Review of Latch School Inc.; Request for Review of North Scott Community School District; Request for Review of The School District of Palm Beach County; Request for Review of United School District.

³⁵ In the Request for Review of Butternut School District (Butternut), we find that USAC erred in denying the school district funding for telecommunications services. The certification date of Butternut's FCC Form 471 was February 4, 2004, after the January 16, 2004 allowable contract date. In the Request for Review of United School District (United), we find that USAC also erred in denying United's funding. The FCC Form 470 filed by United School District for the services at issue indicated that the applicant was seeking a multi-year contract.

³⁶ *See* 47 C.F.R. § 54.504(b)(4).

these appeals and found that a waiver is warranted based on the circumstances presented and based on the facts that there is no evidence of waste, fraud or abuse. The goal of the competitive bidding process is to ensure that funding is not wasted because an applicant agrees to pay a higher price than is otherwise commercially available. We find no indication in the record that, as a result of these errors, applicants benefited from their mistakes or that any service provider was harmed. Specifically, there is no evidence in the record that other bids were not considered because these applicants did not fully comply with our competitive bidding rules. We find that the policy underlying these rules, therefore, was not compromised due to Petitioners' errors. In fact, those Petitioners with multi-year contracts complied with our competitive bidding rules when their requests for service were initially posted. Furthermore, we find that several of these Petitioners, while not waiting the full 28 days before entering into an agreement, only missed the 28-day deadline by a minimal number of days (*i.e.*, one to three days) and therefore their requests for discounted services were subject to competitive bidding for a meaningful period of time. While we emphasize that our competitive bidding rules are important to ensure a fair bidding process, we find that denying these Petitioners requests for funding would create undue hardship and prevent these potentially otherwise eligible schools and libraries from receiving E-rate funding. We therefore find that good cause exists to grant Petitioners a waiver of section 54.504(b)(4) of our rules.³⁷ Accordingly, we grant and remand these appeals to USAC for further processing consistent with this Order.³⁸

10. Although we find that good cause exists to grant waivers of the Commission's rules for the Petitioners described above, we deny the appeal of Adel-Desoto-Minburn Community School District (Adel) for failing to adhere to the Commission's competitive bidding rules.³⁹ Adel said it did not file a new FCC Form 470 in Funding Year 2002 because the window for FCC Form 470s was closed.⁴⁰ Instead, Adel cited to an FCC Form 470 it had filed three years earlier. Commission rules require applicants to file a new FCC Form 470 for posting each year, with minor exceptions.⁴¹ As a result, Adel did not file an FCC Form 470 in Funding Year 2002 to be posted on USAC's website for 28 days to solicit competitive bids for its services.⁴² We find that the particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule.⁴³ Unlike the other Petitioners, Adel's violation of the 28-day rule was not a result of a clerical error or misunderstanding of our competitive bidding rules. Adel circumvented the competitive bidding process by not soliciting bids in the year for which it sought services. As a result, Adel's contract with its service provider was never subject to the competitive bidding process. We therefore deny Adel's petition for review.

³⁷ 47 C.F.R. § 54.504(b)(4).

³⁸ During post-funding review, USAC determined that Atlantic County Library System (Atlantic), Los Angeles Unified School District (Los Angeles); and Swampscott School District (Swampscott) had agreements with their service providers prior to the allowable contract date, and that Kennewick School District (Kennewick) provided the wrong classification of service on its FCC Form 470, both violations of the Commission's competitive bidding rules. Los Angeles, Swampscott and Kennewick were then subject to funding commitment adjustments by USAC which rescinded their funding commitments. In light of our decision, we direct USAC to discontinue recovery actions against Atlantic, Los Angeles, Swampscott and Kennewick.

³⁹ See Request for Review of Adel-DeSoto-Minburn Community School District.

⁴⁰ *Id.* at 1.

⁴¹ There is a limited exception for existing, binding contracts. See 47 C.F.R. § 54.511(c).

⁴² *Id.*

⁴³ See Request for Review of the Decision of the Universal Service Administrator by Henrico County School District, Richmond, Virginia, Federal-State Joint Board on Universal Service, File No. SLD-209204, CC Docket No. 96-45, Order, 17 FCC Rcd 706 (APD 2002) (denying a request for review where applicant relied upon an FCC Form 470 posted in Funding Year 3 in support of its Funding Year 2 service requests).

11. We emphasize the limited nature of this decision. As discussed above, the competitive bidding rules ensure more efficient pricing for telecommunications and information services purchased by schools and libraries.⁴⁴ Many other E-rate applicants fully complied with these rules, and our action here does not eliminate the 28-day competitive bidding requirement. Applicants are not free to disregard the 28-day rule based on their own determination that only one service provider can provide the desired services—they must use the bidding process to determine whether this is the case. In addition, we note that, in the *Comprehensive Review NPRM*, we started a proceeding to address, among other things, potential streamlining of the application and competitive bidding process for the schools and libraries support mechanism.⁴⁵ In the interim, all applicants must comply with our current rules and procedures and continue to submit complete and accurate information to USAC as part of the application review process. Applicants who have questions about the competitive bidding process or who need technical support should contact USAC for clarification and assistance.

12. Further, beginning in Funding Year 2007, we require USAC to provide all E-rate applicants with an opportunity to cure ministerial and clerical errors on their FCC Forms 471 that make it appear that the applicants violated the 28-day rule.⁴⁶ Specifically, USAC shall inform applicants promptly in writing of any and all ministerial or clerical errors that are detected in their applications, along with a clear and specific explanation of how the applicant can remedy those errors. Applicants shall have 15 calendar days from the date of receipt of notice in writing by USAC to amend or refile their FCC Form 471.⁴⁷ The 15-day period is limited enough to ensure that funding decisions are not unreasonably delayed for E-rate applicants and should provide sufficient time for applicants to correct unintentional ministerial and clerical errors.⁴⁸ The opportunity for applicants to amend their filings to cure these types of errors will also improve the efficiency and effectiveness of the Fund and reduce the occurrence of circumstances justifying waivers such as those granted above. Because applicants who are eligible for funding will now receive funding where previously it was denied for ministerial or clerical errors, we will ensure that funding is distributed first to the applicants who are determined by our rules to be most in need of funding. As a result, universal service support will be received by schools in which it will have the greatest impact for the most students. Furthermore, the opportunity to amend the application will improve the efficiency of the schools and libraries program. If USAC helps applicants file correct and complete applications initially, USAC should be able to reduce the money it spends on administering the fund because fewer appeals will be filed protesting the denial of funding for these types of issues. Therefore, we believe this additional opportunity to cure inadvertent administrative, ministerial, and clerical errors on applications will improve the administration of fund.

13. Finally, we are committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeals addressed here, this action in no way affects the authority of the Commission or USAC to conduct audits and investigations to determine compliance with the E-rate program rules and

⁴⁴ See *supra* para. 6.

⁴⁵ *Comprehensive Review NPRM*, 20 FCC Rcd at 11325, para. 40.

⁴⁶ USAC shall also apply this 15-day opportunity to applications with these types of appeals currently before USAC. See *Bishop Perry Order*, 21 FCC Rcd at 5326, para. 23.

⁴⁷ Applicants will be presumed to have received notice five days after such notice is postmarked by USAC. USAC, however, shall continue to work beyond the 15 days with applicants attempting in good faith to amend their applications.

⁴⁸ We note that applicants will retain the ability to appeal decisions denying funding requests on the grounds discussed herein.

requirements. Because audits or investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or our rules, such proceedings can reveal instances in which universal service funds were improperly disbursed or in a manner inconsistent with the statute or our rules. To the extent we find that funds were not used properly, we will require USAC to recover such funds through its normal processes. We emphasize that we retain the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. We remain committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under the Commission's procedures and in cooperation with law enforcement agencies.

IV. ORDERING CLAUSES

14. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that 47 C.F.R. §§ 54.504(b)(4) and (c) ARE WAIVED, to the extent detailed herein.

15. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that, with the exception of the Request for Review filed by Adel-Desoto-Minburn, Adel, Iowa, the Requests for Review and/or Requests for Waiver filed by the Petitioners as listed in the Appendix ARE GRANTED and REMANDED to USAC for further consideration in accordance with the terms of this Order.

16. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that the Request for Review filed by Adel-Desoto-Minburn, Adel, Iowa, IS DENIED.

17. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 1.3 and 54.722(a), that USAC SHALL COMPLETE its review of each remanded application listed in the Appendix and SHALL ISSUE an award or a denial based on a complete review and analysis no later than 120 calendar days from release of this Order.

18. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release, in accordance with section 1.103 of the Commission's rules, 47 C.F.R. § 1.103.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

Appendix

28-Day Competitive Bidding Requirement Violations

Applicant	Application Number	Funding Year	Type of Appeal
Aberdeen School District Aberdeen, WA	297249	2002	Application for Review
Abilene Free Public Library Abilene, KS	475678	2005	Request for Review
Adel-DeSoto-Minburn Community School District Adel, IA	312456	2002	Request for Review
Anchorage School District Anchorage, AK	359931	2003	Request for Review
Albany Public Library Albany, NY	264946, 264948, 264968, 264975	2001	Petition for Reconsideration
Atlantic County Library System Mays Landing, NJ	210563	1999	Request for Review
Augusta County School District Fishersville, VA	468711	2005	Request for Review
Bank Street School for Children New York, NY	266720	2001	Request for Review
Bath School Department Bath, ME	394135	2004	Request for Review
Bedford Public Schools Temperance, MI	383870	2003	Request for Waiver
Bethlehem Area Public Library Bethlehem, PA	476706	2005	Request for Review
B.F. Jones Memorial Library Aliquippa District Library Center Aliquippa, PA	462310	2005	Request for Review
Brunswick County Schools Brunswick, NC	402426	2004	Request for Review

Butternut School District Butternut, WI	427879	2004	Request for Review
Calumet City Public Library Calumet City, IL	397978	2004	Request for Review
Chippewa Hills School District Remus, MI	458210	2005	Request for Review
Chowchilla Union High School District Chowchilla, CA	286755	2002	Request for Review
Clark Township School District Clark, NJ	329953	2002	Request for Review
Columbia Union School District Columbia, CA	476940	2005	Request for Review
Cooperative Educational Service Agency No. 7 Green Bay, WI	434930, 431367	2004	Request for Waiver
Cumberland County School District Burkesville, KY	422037	2004	Request for Review and/or Waiver
Custer County School District Westcliffe, CO	408862	2004	Application for Review
Dallas County School District 1 Buffalo, MO	450565	2005	Request for Review
Danville City School District Danville, VA	377368 ⁴⁹	2003	Request for Review
David Douglas School District 40 Portland, OR	488132	2005	Request for Review
Ewing Public Schools Ewing, NE	389540	2004	Request for Review
Graham Independent School District Graham, TX	231786	2001	Request for Review

⁴⁹ The relief granted to Danville City School District applies only to the 28-day competitive bidding violation in Funding Request Number 1044175.

Helena Public School District No. 1 Helena, MT	329699	2002	Request for Review
Howell Township Public Schools Howell, NJ	355805	2003	Request for Review
Hydaburg City School Hydaburg, AK	445230	2005	Request for Review
Islesboro School District Islesboro, ME	267529	2001	Request for Waiver
Jackson-Hinds Library System Jackson, MS	364529	2003	Request for Review
Johnson Elementary School Johnson, VT	419684	2004	Request for Review
Kennewick School District Kennewick, WA	289973	2002	Request for Review
Latch School Inc. Phoenix, AZ	407909	2004	Request for Review
Los Angeles Unified School District Los Angeles, CA	154262, 153035, 153020	1999	Request for Review
Madawaska School District Madawaska, ME	471143	2005	Request for Review
Maine School Administration District No. 9 New Sharon, ME	292956	2002	Request for Review
Manton JT Union Elementary School District Manton, CA	472608	2005	Request for Review
Marvin L. Winans Academy of Performing Arts Detroit, MI	340426	2003	Request for Waiver
Mason Public School District Mason, MI	502936	2006	Request for Waiver
Miles City Unified School District Miles City, MT	409073	2004	Request for Review

Milton School District Tilton, NH	382043	2003	Request for Review
Modesto City Schools Modesto, CA	447375	2005	Request for Review
Nelson Public School District Nelson, NV	355307	2003	Request for Review
Norborne R-VIII School District Norborne, MO	342549	2003	Request for Review
North Scott Community School District Eldridge, IA	405789	2004	Request for Review
Nottingham School Nottingham, NH	434790	2004	Request for Waiver
Onondaga-Cortland Madison BOCES Syracuse, NY	296555	2002	Request for Review
Philadelphia-Montgomery Christian Academy Erdenheim, PA	330476	2002	Request for Waiver
Princeton R-5 School Princeton, MO	386867	2004	Request for Review
Prosser School District No. 116 Prosser, WA	469478	2005	Request for Review
Rapides Parish Library Alexandria, LA	488334	2005	Request for Review
Reform Public Library Reform, AL	361356	2003	Request for Waiver
Richland School District Richland, WA	373134	2002	Request for Review
Swampscott Public Schools Swampscott, MA	325959	2002	Request for Review
Sycamore Community Schools Cincinnati, OH	461129	2005	Request for Review

The School District of Palm Beach County West Palm Beach, FL	328065	2002	Request for Review and/or Request for Waiver
United School District Armagh, PA	472451	2005	Request for Review
Waverly City Schools Waverly, OH	444786	2005	Request for Review and/or Waiver
Western Ohio Computer Organization Sidney, OH	350140	2003	Request for Review
White Settlement Independent School District White Settlement, TX	423543	2004	Request for Review
Willits Charter School Willits, CA	440944	2005	Request for Review

KLAMATH FALLS CITY SCHOOLS
BEN 145061
471 # 575579, FRN 1591691
Letter of Appeal
Federal Communications Commission
March 6, 2008

NOTE 9 - Klamath_FYs6-11_LOA



Luelle O'Neill Education Center
1336 Avalon, Klamath Falls, OR 97603-4423
(541) 883-4700 • (541) 850-2766 FAX

Dedicated to students, families, and community working together to realize individual dignity and potential

Cecelia Amuchastegui
Superintendent

Letter of Agency for Funding Year(s): FY11 (07/01/08-06/30/09); FY10 (07/01/07-06/30/08); FY09 (07/01/06-06/30/07); FY08 (07/01/05-06/30/06); FY07 (07/01/04-06/30/05); FY06 (07/01/03-06/30/04)

Klamath Falls City Schools hereby authorize eRate Consulting Services, LLC and its employees; Jonathan M. Slaughter, Steve Tenzer, Rich Larson, Carlos Alvarez, Matt Hetman, Bert Garofano, Paul Molt and Mary Ivan Bill Hardin, and its counsel, Bradley Arant Rose & White, LLP, George B. Harris and W. Wendell Cauley, each and all of them to submit FCC Form 470, FCC Form 471, appeals and other E-rate forms to the Schools and Library Division and the Federal Communications Commission on behalf of our school district for all eligible services outlined in the most current "Eligible Services List" published by USAC.

I understand that in submitting these forms on our behalf, you are making certifications for our school district. By signing this letter of agency, I make the following certifications:

- (a) I certify that the schools in our district are all schools under the statutory definitions of elementary and secondary schools found in the Elementary and Secondary Education Act of 1965, do not operate as for-profit businesses, and do not have endowments exceeding \$50 million.
- (b) I certify that the schools in our district have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services.
- (c) I certify that all schools in our district are covered, or will be covered at the time funded services are provided, by E-rate approved technology plans (unless discounts are only being requested for basic local and long distance telephone service).
- (d) I certify that our school district is compliant, or will be compliant at the time funded services are provided, with the Children's Internet Protection Act (unless discounts are only being requested for telecommunications services.)
- (e) I certify that the services that our school district purchases using E-rate discounts (as described in the law 47 U.S.C. Sec. 254) will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.
- (f) I certify that the entities eligible for support that I am representing have complied with all applicable state and local laws regarding procurement of services for which support is being sought.
- (g) I certify that our school district has complied with all E-rate program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments.
- (h) I understand that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of the benefits from those services.
- (i) I certify that I am authorized to sign this letter of agency and, to the best of my knowledge, information, and belief; all information provided to E-rate Consulting Services, LLC for E-rate submission is true.
- (j) I authorize E-rate Consulting Services, LLC to act as our agent in a limited capacity with any service providers to request Customer Service Records. We are NOT granting E-rate Consulting, LLC authority to make any changes on our behalf.

I understand that persons willfully make false statements on E-rate forms or through this letter of agency can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001

Signature: _____

Date: _____

Name: _____

(Please Print)

Title: _____